4535. Also, the following protests against the Falls River Basin bill and the Federal Water Power Commission act: Thomas Boal, the Chicago College Club, Mrs. R. H. Fulton, Horace Porter, Ruth Freese, Catharine A. Mitchell, all of Chicago, and the La Grange Woman's Club, of La Grange, and the Nature Study Society of Rockford, all in the State of Illinois; to the Select Committee on Water Power.

SENATE.

WEDNESDAY, *December 15, 1920.*

The Chaplain, Rev. Forrest J. J. Prettyman, D. D., offered the following prayer:

Almighty God, Thou hast given us but little time. Thou dost require great things at our hands. A mighty task is before us. Tremendous responsibilities weight us down. Who are sufficient for these things? In the midst of life are changes and uncertainties. We look to Thee, O God, God of our fathers, who has presided over councils of state. We pray Thy blessing upon us that we may fill up the measure of our time with the largest measure of service to our fellow men and to the glory of Thy Name. For Christ's sake. Amen.

The reading clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

TRAVEL EXPENDITURES OF AGRICULTURAL DEPARTMENT.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a statement showing travel of officials and employees of the department on official business during the fiscal year 1920, which was referred to the Committee on Appropriations.

EXPENDITURES UNDER FEDERAL AID ROAD ACT.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a statement showing expenditures under the Federal aid road act during the fiscal year ending June 30, 1920, which was referred to the Committee on Agriculture.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the joint resolution (S. J. Res. 191) to create a joint committee on the reorganization of the administrative branch of the Government.

ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. J. Res. 407) authorizing payment of the salaries of officers and employees of Congress for December, 1920, on the 20th day of said month, and it was thereupon signed by the Vice President.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 11984) entitled "An act to increase the force and salaries in the Patent Office, and for other purposes," and agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. DAVIS of Tennessee, Mr. NOLAN, and Mr. LAMPERT managers at the conference on the part of the House.

CALL OF THE ROLL.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harrison	McLean	Smith, Md.
Ball	Heflin	McNary	Smith, S. C.
Beckham	Henderson	Myers	Smoot
Brandegee	Hitchcock	Nelson	Spencer
Calder	Jones, Wash.	New	Sterling
Capper	Kellogg	Norris	Sutherland
Culberson	Kendrick	Nugent	Swanson
Curtis	Kenyon	Overman	Thomas
Dial	Keyes	Page	Underwood
Edge	King	Phipps	Wadsworth
Fernald	Kirby	Poindexter	Walsh, Mass.
Fletcher	La Follette	Ransdell	Walsh, Mont.
France	Lenroot	Sheppard	Warren
Gore	McCumber	Simmons	
Harris	McKellar	Smith, Ga.	

Mr. SHEPPARD. I wish to announce that the Senator from Oregon [Mr. CHAMBERLAIN] is absent on official business, and that the Senator from South Dakota [Mr. JOHNSON] is absent by reason of illness.

The VICE PRESIDENT. Fifty-eight Senators have answered to the roll call. There is a quorum present.

PERSONAL EXPLANATION—COTTON FACTORS.

Mr. RANSDELL. Mr. President, I rise to make a brief explanation.

During the debate on the 13th instant the Senator from Tennessee [Mr. MCKELLAR] made a statement in regard to the practices of cotton factors and the practices of the Federal Reserve Board in relation thereto. I stated to the Senator that I thought he was mistaken in so far as the New Orleans branch of the Federal Reserve Board was concerned. I find that I was mistaken and that the Senator from Tennessee was entirely correct in his statement of the case. I wish to make this correction.

PETITIONS.

Mr. MYERS presented a petition of the Orchard Homes Woman's Club, of Missoula, Mont., praying for the enactment of legislation for the protection of maternity and infancy, which was ordered to lie on the table.

He also presented a petition of Local Union No. 3574, United Mine Workers of America, of Klein, Mont., in favor of amnesty for all political prisoners, which was referred to the Committee on the Judiciary.

Mr. McCUMBER. Mr. President, I present a telegram from a convention of farmers lately assembled in my State, and I ask that it may be read.

The VICE PRESIDENT. Is there objection? The Chair hears none. The Secretary will read the telegram.

The telegram was read and ordered to lie on the table, as follows:

CANDO, N. DAK., *December 14, 1920.*

Senator MCCUMBER,
Washington, D. C.:

Over 300 farmers of this vicinity have been in convention here considering matter of prices of their produce. Farmers are anxiously watching Congress and looking to Congress as their last hope for relief against inevitable bankruptcy. Official and speculative deflaters, in order to create fear among farmers and force them to unload and reduce prices of their products without regard to cost of production or law of supply and demand, are using all available propaganda, much of which is without foundation in fact. The result will be a ruination of the agricultural industry of the United States if Congress does not promptly and efficiently act in the premises. Resurrect the War Finance Corporation to the end that credits may be extended to foreign countries desiring to purchase our surplus that can furnish satisfactory security. Place an embargo on the importation into the United States of all products which our farmers produce in sufficient quantity to supply the needs of our people, and in that manner not only protect our market but also insure to the American producer the benefit of the credit thus extended. Make the act of selling futures covering articles produced by the farmers of the United States a criminal offense on the part of the seller and his agent, if the seller does not at the time of the sale, in good faith, own and have in the United States the actual article covered by the future sold, and in that manner shut out of our markets the wind injected therein by the speculative deflater, whether he be citizen or foreigner. The American farmer is the best producer and consumer in the world. The agricultural industry is the backbone of our country. The American wheat grower was not dealt fairly with during the war, but he accepted the bitter given him because of his patriotic zeal for victory. After victory and because of the distress of the world, and believing that his Government would at least leave him in no worse position that it placed him during the war, he continued to produce every possible pound of foodstuff at continually increasing cost of production. The American farmer now believes that he is within his rights in demanding and of right is entitled to remedial legislation protecting his market.

J. J. KEHOE,
W. F. BACON,
D. F. MACLAUGHLIN,
Committee.

Mr. POINDEXTER presented a telegram in the nature of a petition from bankers in the city of Toppenish, Wash., praying for the enactment of legislation placing an embargo on wool, which was referred to the Committee on Agriculture and Forestry.

He also presented a telegram in the nature of a petition from bankers in the city of Yakima, Wash., praying for the enactment of legislation placing an embargo on wool and mutton, which was referred to the Committee on Agriculture and Forestry.

Mr. TOWNSEND presented a petition of sundry American Indians praying for the enactment of legislation which will grant and guarantee to them the rights and privileges of citizenship, which was referred to the Committee on Indian Affairs.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MYERS:

A bill (S. 4649) to repeal section 7 of the act of October 6, 1917, entitled "An act making appropriations to supply urgent

deficiencies in appropriations for the fiscal year ending June 30, 1918, and for other purposes"; to the Committee on Appropriations.

A bill (S. 4650) to grant certain lands to the city of Miles City, State of Montana, for use by said city for park, recreation, community, and camping purposes; to the Committee on Public Lands.

By Mr. McKELLAR:

A bill (S. 4651) granting a pension to Carriston W. Looper; to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 4652) granting a pension to Ida L. Fay (with accompanying papers); to the Committee on Pensions.

By Mr. McNARY:

A bill (S. 4653) for the relief of E. W. McComas; to the Committee on Public Lands.

A bill (S. 4654) granting a pension to Adella M. Porter; to the Committee on Pensions.

By Mr. OVERMAN:

A bill (S. 4655) granting an increase of pension to James B. Waters; to the Committee on Pensions.

By Mr. SPENCER:

A bill (S. 4656) for the relief of Hubert J. Stanley, alias John H. Lash (with accompanying papers); to the Committee on Military Affairs.

By Mr. WADSWORTH:

A joint resolution (S. J. Res. 226) authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to the dead of the First Division, American Expeditionary Forces, in the World War; to the Committee on the Library.

THE COLOMBIAN TREATY.

The VICE PRESIDENT. Concurrent or other resolutions are in order.

Mr. KING. Mr. President, the inquiry I am about to make does not come under the head of "concurrent and other resolutions," but I should like to ask some member of the Foreign Relations Committee—I do not see the chairman of that committee present—whether there is any disposition to bring to the Senate for action the pending treaty between Colombia and the United States? It does seem to me that this session of Congress should not adjourn until that treaty has been disposed of. It would be an act of justice to a friendly nation that we should dispose of that treaty.

Mr. McCUMBER. Mr. President, I do not see the chairman of the Committee on Foreign Relations present, and I therefore hope the Senator from Utah will defer the question, or at least the request for an answer to his question, until the chairman of that committee is in the Chamber.

Mr. POINDEXTER. Mr. President, I suppose that the Senator from Utah really means to say that we ought not to adjourn this session of Congress until that treaty shall have been ratified?

Mr. KING. Oh, Mr. President, the Senator from Utah does not mean that. The Senator from Utah knows that this session shall adjourn—and I think the Senator from Washington, having read the Constitution, knows that fact—on the 4th of March, and I feel that the ratification of that treaty is a matter of unfinished business that ought to be disposed of before we adjourn.

Mr. POINDEXTER. Does the Senator from Utah mean to say that it would be a friendly act to the State of Colombia to refuse to ratify the treaty?

Mr. KING. Responding to my friend from Washington, I will answer that question in the negative. I think that we ought to ratify the treaty.

Mr. POINDEXTER. That is what I assumed, and I was just going to suggest to the Senator from Utah that it is not likely that the treaty will be ratified at this session of Congress.

Mr. KING. I can not believe that the Senate of the United States will refuse to do justice to a friendly nation and will refuse to ratify the treaty.

Mr. THOMAS. Mr. President, I think the senior Senator from New Mexico [Mr. FALL], a member of the Committee on Foreign Relations, is the chairman of a subcommittee having the Colombian treaty in charge. I had a consultation with him a few mornings ago with a view of ascertaining whether the treaty would be considered at this session of Congress. He is very anxious to submit it and have it ratified, as I understand the Senator from Utah is; but there is some serious objection to the consideration of the treaty at all; and I need not remind my friend from Utah that such objections will, if persisted in, prevent the ratification of the treaty at this short session.

Some time ago I undertook to investigate the facts surrounding the acquisition of the Panama Canal, and, upon the assumption that that treaty would soon be presented for consideration, I prepared an address upon it. It is my intention, whether the treaty is before the Senate for consideration at this session or not, to incorporate that address in the RECORD before adjournment; but from what I know about the situation, I think my friend from Utah will have to postpone his vote for the ratification of the treaty until the new Congress comes in, when the treaty may or may not be ratified.

ASSOCIATION OF PRODUCERS OF AGRICULTURAL PRODUCTS.

The VICE PRESIDENT (at 12 o'clock and 30 minutes p. m.). Morning business is closed.

Mr. NELSON. I move that the Senate proceed to the consideration of Order of Business 611, being House bill 13931, the bill which was before the Senate on yesterday.

Mr. CALDER. I ask the Senator from Minnesota if he will yield to me to ask for the consideration of a resolution which comes over from yesterday? I am sure it will not take more than a minute or two for its consideration.

The VICE PRESIDENT. There is no resolution coming over from yesterday.

Mr. CALDER. I know that is technically true, but I simply ask the Senator from Minnesota if he will yield to me to present a motion in reference to the resolution. I am sure that action on my resolution will not take more than a moment or two.

Mr. KELLOGG. Will the Senator from New York yield to me? I wish to make merely a few remarks on the bill the consideration of which is proposed by my colleague, as I must return to a committee which is in session.

The VICE PRESIDENT. The question is on the motion of the senior Senator from Minnesota [Mr. NELSON].

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 13931) to authorize association of producers of agricultural products.

Mr. KELLOGG. Mr. President, I have not time to discuss the Sherman antitrust law fully as it may apply to the pending bill, but I wish to submit a few observations upon the measure as I must, in a few moments, return to a committee which is taking testimony on the cable situation. However, before mentioning the legal problems involved, let me suggest for a moment what the object of the pending bill is. I might say that many of the States—I have not time to go into detail—New York among others, have within the last year or two, in encouraging such farmers organizations as are here proposed, passed laws permitting them to exist. Such bills are pending before the legislatures of many States and will undoubtedly be passed. There is an aspect of interstate commerce involved, of course, for the States can not authorize shipments of products to market from one State to another. All that is asked in the pending measure is that Congress shall legalize such selling agencies, reserving in the Department of Commerce and Labor or the Department of Agriculture, whichever the Senate may decide, the right to supervise them and prevent their abuse so as to unduly increase prices.

I think it will be admitted that one of the gravest economic questions which exists to-day so far as the farmers of the country are concerned is that of marketing. Aside from those products which may be sold any day upon an exchange, the farmers of the country have been producing yearly hundreds of millions of dollars worth of products which must be sold, transported, and delivered to consumers on which the price the consumer pays is inordinately high as compared with what the farmer receives.

I wish I had the time to illustrate some of the discrepancies. For instance, statistics show that in the State of New York the farmer receives about 6 cents a quart for his milk, whereas the consumer pays 14 cents. Similar conditions exist in the West. Take the potato crop and many other crops, including the apple crop. This year they are rotting on the ground, because of no coordinated scientific system of marketing enabling the consumer to buy those products. There is to-day no question that is occupying the attention of local State officials and of legitimate, conservative farming organizations as much as the question of cooperative marketing.

Look at the condition in California. I can remember only a few years ago when the fruit producers of California were bankrupt all the time. They had no facilities for marketing their products and no agents to furnish the products to the country as the country required them. There were no storage facilities and no coordination, but each man proceeded to dump his stuff upon the railroads. Consequently the markets were glutted; people could not buy all the products when they were glutted, and at other seasons of the year they had to pay

enormous prices and many times could not get fruit. Now the producers have real scientific, businesslike organizations. They have built their own warehouses for the handling of their fruit; they have their own agents; they guarantee deliveries of good oranges and other fruit so that any man can buy from one of those farmers' organizations and know that the product will be good. The same thing to some extent applies to apples. The result has been that the public has paid less according to the standard prices of the country, and the producer has received more. It will be found to-day that the difference between what the fruit producer receives and what the consumer pays is less than applies in the case of most other products. It represents a small, fair profit over and above the actual handling cost. Why? Because they have their skilled agents.

Mr. President, I can not stop to go into this matter in detail, but the farm bureau organization, which is one of the greatest organizations in this country, the grange, and many other organizations have taken up the subject and are doing a great deal along that line—for instance, in the sale of butter, as has been done in my State, as my colleague [Mr. NELSON] explained yesterday. They need to do it in the case of potatoes and many other products. Every autumn in my State potatoes are dumped on the market; there are not sufficient facilities for handling them, and there is no organized selling system, and as a consequence the farmer ordinarily makes no profit on his production.

One thing is sure, that the farmers of this country have got to be fairly prosperous or the country will not be prosperous. Those in the cities can not go on making money unless their activities are based upon a fairly prosperous, independent agricultural industry.

There is no State in the Union in which this question was more discussed during the autumn than in Minnesota. We had a square issue, not between Democrats and Republicans but between the fairly conservative people, represented by the Republicans on the one side and on the other by the Nonpartisan League, representing state socialism and state ownership of all industries. I hold in my hand the platform of that party which made the square issue which was decided by the people of Minnesota after thorough discussion. The program of the Nonpartisan League embraced "public ownership and operation of railways, steamships, banking business, stockyards, packing plants, grain elevators, terminal markets, and all other public utilities, and the nationalization and development of basic natural resources, water power, and unused land, with the repatriation of large holdings." There you have it. It is a socialistic state ownership program, involving the means of distribution and natural resources.

I do not believe that the Government can go into such businesses and compete in the interest of the people with private enterprise. I believe that private enterprise must operate the industries of this country, that there must be the individual hope of gain and of betterment of condition, and the enterprise incident to the splendid American spirit in order to make them successful. But, Senators, we are going to have one or the other. Either the farmers are going to organize and have good and stable market conditions, which I believe they have the ability to establish, or we will have state socialism. We can take our choice.

Now, you know and I know that all the farmers of this country or all the small producers in any line of business can not combine and control the food products of this country. We know, furthermore, that the farmers of the community or of the State who are adjacent to a big market can organize, can procure better marketing facilities, warehouses, and agents, and can produce their products and put them in the hands of the consumer a great deal cheaper than it is being done now, and they will get the benefit of it, and we who are living in the cities will get the benefit of it.

The Republicans of Minnesota advocated and the State campaign was decided upon the principle of cooperation in marketing facilities among farmers, rather than State ownership of these facilities. I do not pretend at all that the Government can legislate prosperity to the farmer, the laboring man, the manufacturer, or anybody else, nor am I willing that the attempt shall be made. But the Government can permit, aid, and encourage the self-enterprise of the producer and the farmer to establish marketing conditions which will benefit him as well as the consumer, and we should not prevent that. I am not in favor of selecting one class of people in the country and legislating for their particular benefit, or exempting them from the general laws of the country; but if there is any one question that is vital to the production of this country and to the interest of both the consumer and the producer it is better marketing facilities in this country, and they must largely be procured through cooperation of the farmers themselves. They can do it, and in my opinion they have the intelligence to do it.

Mr. KING. Mr. President——

Mr. EDGE. Mr. President, may I ask the Senator one question?

Mr. KELLOGG. One question; yes.

Mr. EDGE. Granting that all the Senator says as to the necessity for organization is true—and I believe it is—what is the reason, from the Senator's viewpoint, that this particular class of persons should have an immunity from prosecution not granted to any other class of citizens?

Mr. KELLOGG. For the same reason that we granted it to exporters, who are marketing men, and who necessarily come in competition with other marketing men—exactly the same reason; no other.

This bill is not the only bill that the Congress has passed. The Congress found it was necessary for the American manufacturer and producer to compete in the markets of the world; and, as I said on the floor of the Senate the other day, the Governments of Europe are buying through commissions. Even before the war, many of the large concerns of Europe as to many of our products were combining and buying through commissions, because they could beat down the American market as against a multitude of unorganized sellers. That appeared when we passed the bill permitting combinations in foreign trade. We authorized incorporations to act as central selling agencies for all producers. Why should we not authorize agreements or selling agencies for farmers, both domestic and foreign, provided we protect—as we did in that bill—the American people against monopoly?

All that this bill does is to provide that they may cooperate, either with or without capital stock—

> in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of their members; and such producers may organize and operate such associations and make the necessary contracts and agreements to effect that purpose, any law to the contrary notwithstanding.

But it is not left there. A limitation is placed upon how much this corporation shall earn—8 per cent, which, I am sure, in view of the profits made by many corporations, is entirely reasonable. There is no limitation placed upon what a foreign selling agency may make, or what other corporations may make. I think this is entirely reasonable.

The members are only allowed one vote each, in order that it may really be a cooperative institution. It appeared by the testimony that it was necessary to permit corporate organizations by reason of the large number of people interested, and the necessity to have some corporate organization to handle the business of the selling agencies; but, in order to protect the American people, it is provided that the Federal Trade Commission shall have full authority to decide that they are monopolistic, or unduly restrain trade, and to enjoin them if they do.

But it was said by the Senator from New Jersey [Mr. EDGE] that they may not know whether they have violated the law or not until they are haled into court. That is exactly the trouble. In other words, find an indictment first, and determine whether there is reasonable evidence of the man's guilt afterwards. That is the way they have been doing. These people have been hauled up and indicted in various States, some under State laws and some under Federal laws, and the legislatures of the States have promptly passed laws legalizing their activities. Now, I do not believe in the practice of indicting a man first and afterwards determining whether there is reasonable evidence of his guilt. It is a serious thing to indict an American citizen, and it is very rarely that there is a conviction under a statute of that kind, regulating business.

In order that we may protect the American people it is provided that if the restraint of trade or the lessening of competition is to such an extent that the price of the agricultural product is unduly enhanced by reason thereof the commission shall serve notice and may proceed in court to enjoin it and protect the American people. What the consumer is interested in, of course, is paying a fair price, and I do not believe that the doors should be thrown open for any class of the community to organize and combine to unduly elevate prices. There is ample opportunity for protection here if there exists any possibility that the farmers of this whole country could combine in one organization or in a dozen organizations which should conspire with each other to control the food supply of the country.

The farmers must have better marketing facilities, the consumer must buy his product cheaper, taking into consideration the cost of production, and the farmer must be prosperous, or 35 per cent of the people of this country will not produce sufficient food for the balance. We might as well make up our minds to that. There never was a nation on the face of th

earth where agriculture decayed and the nation remained prosperous and great.

I do not claim that the farmers have not made profits in the past. They are not making them to-day, however, and they are in an appalling condition. What they want to do is to organize selling agencies and get all the advantage they can from coordination in selling agencies, which is for the benefit of the farmer as well as the consumer.

There is a good deal in what the Senator from North Carolina said, that we shall not be able to run the business of this country with indictments or lawsuits. I have had five or six years of experience along that line, and I believe that a bill that I introduced, or the principle of it, will some day have to become a law, whereby there will be some supervision over the large corporations of this country which will restrain them and regulate them, rather than let them do as they please, and then seek indictments.

I am not in favor of permitting the unlimited organization of monopolies to throttle the American people, but I am in favor of permitting reasonable coordination and cooperation among the farmers in order that they may get a better market and lessen the cost of placing their products in the hands of the consumers of this country, which undoubtedly can be done. In the last year or two the best minds of the country have been concentrated and are now being concentrated upon this great problem, and I believe it is the greatest hope for the people of this country and for agriculture.

I do not think there is any great danger to the people in this bill. It is fairly guarded. I do not pretend that it does not make some changes in the Sherman Antitrust Act. I do not consider that a holy document that can not be touched when the business conditions of the country demand it. I am in favor of preserving its principles for the protection of the American people, but I am also in favor of modifying it, as we have done several times, and especially as we did in respect of foreign trade when it was necessary for the real benefit of the American people and the development of trade and markets. One of the changes is incorporated in this bill. It is required that it shall be shown that these restraints are monopolistic to such an extent that the price of agricultural products is unduly enhanced by reason thereof. Well, why should it not be shown? Why should not that appear? If it is not enhanced, if the price is lowered, there can not be any injury to the American people, unless it is used for monopolistic purposes to exclude somebody from the business.

With these safeguards in the bill, the farmer has what I think the business man is entitled to—a chance to work out this problem—and, then, if his organization is not legal, he has an opportunity before he is indicted to go before the proper tribunal and present the facts. It is very difficult for a business man or a farmer to tell whether or not he is violating the Sherman Antitrust Act in its criminal provisions; and it appears by the hearings on this bill that they are not willing to accept the risk of a technical violation of the criminal provisions of the Sherman Act in order to organize reasonable selling agencies, which, I believe, are protected by this bill.

Mr. TOWNSEND. Mr. President, I have been a little confused during the last three or four days with reference to the object of some of the legislation which has been proposed. For instance, the other day when we were discussing the revival of the War Finance Corporation some of the advocates of the measure suggested, in the specific case of cotton, which I imagine applies to wheat and other things in the same way, that they were advising the farmers in their part of the country to refrain from growing cotton, and they were advocating a measure whereby the Government was to aid these farmers in holding their crops, even as against the proposition of a forced reduction in production. I was wondering if the Senator is of the opinion that it is wise for Congress at this time to do anything which will, through the aid of the Government, enable the farmers, the manufacturers, or any other class of our people to hold their products until such a time as they feel it is proper for them to sell.

Mr. KELLOGG. Mr. President, I am not of the opinion that the Government should enter into a conspiracy with farmers or anybody else to hold products for the purpose of forcing the price up, and this bill does not authorize anything of the kind. It authorizes cooperation in collective processing, preparing for market, handling and marketing products in interstate and foreign commerce. That is the object of the bill, and that is what the bill is really for. It has been pending quite a while before Congress, and, as I said, many of the States have adopted the principles of the bill.

Congress did it some time ago, except that it left indefinite one clause. Congress provided that such horticultural or agricultural organizations might be organized, "not having capital stock or conducted for profit or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof," and so forth; that is, they should not be forbidden from carrying it out, but the question of whether this was for reasonable profit was left in doubt in the Clayton Act, and the Government in some cases has claimed that if it was for reasonable profit it was illegal under that bill.

Mr. TOWNSEND. Mr. President, if I may be permitted further, I am very heartily in favor of granting every legitimate right to farmers and every other class of our people to which they are entitled. I realize, however, that we have in the past indulged in what is known as class legislation. A few years ago the tendency of the country was to legislate in favor of the corporations of the country quite largely. We know now that that kind of legislation was absolutely wrong. For a number of years we have been attempting to eliminate labor organizations, for instance, from the general operation of the laws of the land. At one time we associated with that legislation the word "farmer," in order to enlarge the class, when all of us knew that the farmers were not asking for it, and that it was of doubtful benefit to them.

As I said to begin with, in asking the question, I have been confused at some of the legislation, especially as illuminated by the arguments which have been made in support of it during the last few days. I repeat that I am in favor of granting every legitimate right and offering every proper encouragement to agriculture; but when the Senator proposes to amend the Sherman antitrust law—because I take it this is a proposal to amend it so that it shall not apply to one class of our people—I am wondering where it will stop. How can we make legislation of that kind general?

Mr. KELLOGG. Mr. President, I am compelled to leave in a moment, and I have not time to listen to any speeches put in the body of mine. I am perfectly willing that Senators should make speeches in their own time. I have not the time to answer any more questions.

Mr. McKELLAR. Mr. President, will the Senator yield to me just to make a correction?

Mr. KELLOGG. I am going to make a correction first, and then the Senator can make his afterwards.

Mr. McKELLAR. The Senator prefers that I should make mine afterwards?

Mr. KELLOGG. If the Senator pleases.

Mr. McKELLAR. Very well.

Mr. KELLOGG. This bill does not exclude entirely a class of people from the antitrust law. It does no more than was done in the foreign trade act. This bill has not been inspired by the present apparent necessity of maintaining prices of farm products, or anything of the kind. This bill was introduced during the last session, when prices were very high all over the country, and there was no demand for increased prices. It was inspired by a legitimate investigation and trial by farmers in organizing reasonable selling agencies and coordinating their efforts to place their products in the hands of the consumer. That is the real force behind this bill.

In the State of New York they indicted a lot of farmers under the State law, and the legislature took the subject up and inquired into it, and legalized the private organizations; and that has been done in many States.

As I said before, the experience of the conservative, fair-minded farm organizations of this country, like the grange, the farm bureau, and many other organizations which I could name, which are not socialistic, and are not asking anything from the Federal Government, shows that the greatest field for their ability and activity is the field of marketing their products, and certainly the prices we are paying in the cities, and have been paying, should demonstrate the same facts.

That was the real object of this bill. I am not going to advocate—I do not now—abrogating the Sherman Act and permitting people to organize to throttle the American people by holding their products and demanding any price they see fit. However impossible that would be for the farmers of the country, I would not permit it, and they do not ask it. If you will talk with the ablest of the farmers of this country who have discussed this subject you will find they are not state socialists; that they are in favor of the Sherman Act; that they want to develop a legitimate marketing business and make the farmer independent and thereby make the people independent.

Mr. McCUMBER. May I ask a question here? I want the Senator's opinion.

Mr. KELLOGG. Very well.

Mr. McCUMBER. I want to call the Senator's attention to line 11 on the first page, the last clause, "any law to the con-

trary notwithstanding." I think that some have rather been misled by the idea that there is really a law that is contrary to the provision. It is a provision "that persons engaged in the production of agricultural products * * * may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce such products of their members; and such producers may organize and operate such associations" for this purpose. Is there any law to the contrary now? That is the real gist of the whole question.

Mr. KELLOGG. I will answer that question, and then I shall close.

I believe that under the law now reasonable cooperation in marketing and marketing facilities is permissible and that companies may be organized. There is some question as to just how far they may go, and there is a dispute between district attorneys and the representatives of these organizations as to whether they are legal or illegal, but I suppose nobody will know absolutely until there is a decision of the Supreme Court.

It is quite possible that the principles of the Northern Securities case, if carried out to a legitimate end, might prevent a selling agency from being organized which it is claimed has the power to raise prices, whether it exercises the power or not. This, in that event, would change the rule so that they might cooperate in marketing provided it is not found to be monopolistic and to the injury of the public in unduly enhancing prices.

I do not think that is an unreasonable regulation and I believe that in the main that is now authorized by the Sherman Act. I do not pretend to say that this does not make some changes.

Mr. SIMMONS. Will the Senator let me ask him one question?

Mr. KELLOGG. Yes; I will answer one question.

Mr. SIMMONS. I merely wish to ask the Senator if, in his opinion, the powers of supervision which are given in the bill will not protect the consumers of this country against monopolistic prices on the part of agricultural cooperation and association just as effectually as the application of the provisions of the Sherman antitrust law would protect them?

Mr. KELLOGG. I think they will; and I may say, further, that if it should ever appear that the provisions of that act did not, Congress would not be slow to amend it.

Mr. SMITH of Georgia. Mr. President, this bill was intended to, and will, encourage organizations of farmers for the cooperative sale of farm products. It expressly declares that they "may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce."

It will prove, I trust, of great value both to those engaged in farming and to those who buy their products. Anyone who has studied or even casually observed the marketing system of the farmers of the country must know that as a rule it has been unscientific and unsatisfactory. Producing in many instances commodities that are to be consumed during a 12-month period, they throw those commodities upon the market as individual producers and they are absorbed by middle men buying collectively from the individual farmers and, after gathering them together, selling at largely increased prices to the consumer.

All the farmers are competing with each other in a disorganized system of sale, in a system of sale in many instances without accurate knowledge of the value of the ultimate market and without business organization or business preparation to place their products in the hands of the consumers or to obtain from the middle men a fair return for their money.

The bill practically invites them to organize. I hope they will organize in every county and every State in the Union. I hope they will organize in localities to cooperate in the marketing of their products.

Secretary of Agriculture Wilson at one time declared that an investigation of the subject led him to the conclusion that what the farmer sold for $1, as an average when it reached the consumer cost the consumer $2. This has been due to unscientific sale by the farming classes resulting from their utter lack of organization and cooperative selling. If the farmers will in their localities make organizations broad enough for extensive cooperative selling the whole tendency will be toward enabling them to carry their products from the middle men more nearly to the ultimate consumer. While the farmer as the result of organization will receive more compensation for his labor, the ultimate consumer may expect to receive his product as a rule at a smaller cost.

We have organized in the Department of Agriculture a Bureau of Markets, with a view to helping bring from the producer to the consumer the products of the producer. Most of the States have organized market bureaus. I hope to see this carried to the extent of an agent of the State market bureau in every county in my State and in other States, where the farmers will be aided in the adoption of better business methods for the cooperative disposition of their products and be aided in disposing of their products more directly and immediately to the ultimate consumer.

Mr. FLETCHER. Mr. President, may I interrupt the Senator at that point?

Mr. SMITH of Georgia. I yield to the Senator from Florida.

Mr. FLETCHER. May I remind the Senator that about 1915, I think it was, some of us favored an amendment to the appropriation bill coming from the Committee on Post Offices and Post Roads, providing for an initial appropriation of $10,000 and authorizing the Post Office Department to make experiments and investigations into the question how best to promote direct dealing between producer and consumer. They did make that investigation. That was not only in the interest of the producer, but it was in the interest of the consumer, and that includes pretty nearly everybody. Some suggestion is made about this being class legislation. Everyone is interested in the subject, not only the farmer.

That appropriation led to experiments, and finally other appropriations were made in subsequent bills, and that work continued. The Post Office Department were putting into use trucks and other means for carrying products from the farm directly to the producer, and it was proving an immense success and a great advantage to the public generally, both the consumers and the producers. But in the last Post Office appropriation bill, in another branch of the legislative department of the Government, that item was stricken out entirely, so that we no longer have that means which was provided for the benefit of the public generally in the distribution of farm products.

I believe I am correct in stating that the item providing for the development of facilities for promoting direct dealings between the producer and the consumer was stricken out of the last Post Office Department appropriation bill, or was not put into it when the bill originated at the other end of the Capitol, and therefore that whole effort has fallen to the ground. It means all the greater necessity for this kind of legislation, in order that the producers may cooperate for their advantage and for the good of the public.

Mr. TOWNSEND. Mr. President, may I say a word?

Mr. SMITH of Georgia. I yield with pleasure to the chairman of the Committee on Post Offices and Post Roads.

Mr. TOWNSEND. It is true that Congress made an appropriation of $300,000 several years ago for the purpose of experimenting in truck service between producer and consumer. That was continued for the second year. It was discontinued at last because the department itself refused to recommend it—in fact, suggested that it was not a success. We well remember that there was considerable of scandal connected with that proposition and the method in which it had been conducted. Congress has always been very anxious and very willing to contribute to the actual object which the Senator from Florida has suggested, namely, to do what it properly could do to reduce the spread between the cost and the selling price.

I mention this simply to show that the reason why it was not in the bill the last time was because it had proven very unsatisfactory to the department itself, as represented by the Postmaster General, and they refused to recommend it.

Mr. FLETCHER. That, I understand, covered the broad question of the use of trucks, but the fundamental idea, the principal thought, was that the department should develop a means whereby it could be done without loss to the Government for promoting direct dealing between producer and consumer. That has never been a failure. The use of the trucks brings up another question for other purposes, and of course I do not care to go into that.

Mr. TOWNSEND. But the trucks referred to were operated for that express purpose and no other purpose; that is, that was the intention of the Congress. The Government has expended $600,000 on that very particular thing. I am not condemning it as a general proposition, I am simply recording the fact as it occurred with reference to that appropriation.

Mr. SMITH of Georgia. Mr. President, it has been suggested that as a result of the proposed cooperative selling by farmers there may be a holding of their products. I would be gratified, I believe it would be a public benefit, if that class of farm products which are harvested but once a year could be held by the farmers to be disposed of from time to time as the consumers need the products. I can not conceive that the prompt sale of a product which is harvested but once a year and which will be consumed during a 12-month period by

the public—I can not conceive that the prompt sale by the farmer as soon as he harvests that product, passing his product not to the consumer but to the middleman, is in any way conducive to lower prices to the ultimate consumer. I believe the farmer would receive better compensation if he could market more gradually, and the consumer would buy at a better price.

Now, why the necessity for this legislation? It is said that the provision "any law to the contrary notwithstanding" takes these organizations out from under the Sherman antitrust law. I think it does. I want it to do so. I understand that the bill legalizes cooperative action by farm associations, that it will free them from indictment under the Sherman Antitrust Act, and will free them from attack of any kind except that provided for in the bill. I want to see that done.

Mr. SMOOT. Is it not a fact that if that is not done there is no necessity for the passage of the legislation?

Mr. SMITH of Georgia. I do not know. I am not willing to commit myself upon that, but I do say that I think it does, and I want it to do so. That is one of the reasons why I want it passed.

Mr. SMOOT. I have not a doubt that the Senator from Georgia is correct. The object of the bill is just as he says it is, and I have not any doubt that the wording of the bill will be construed in that way.

Mr. SMITH of Georgia. I think it will. I would certainly construe it in that way myself. I think it wise to pass such legislation. I will give my reasons for that now.

The leading cases in the Supreme Court, to which reference has been made, are the Standard Oil case, the American Sugar Refining case, and the Steel Corporation case. In each one of those cases there were dissenting opinions. In the first two Justice Harlan dissented. In the Steel case my recollecction is that three of the justices—Justice Day, Justice Pitney, and Justice Clarke—dissented, and two of the justices did not sit—Mr. Justice Brandeis and Mr. Justice McReynolds. So that the principles enunciated in that case are still in a measure the subject of further inquiry.

They declared in the first of those cases what was called the rule of reason, which was that a combination must be an unreasonable and undue restraint of trade in interstate commerce to sustain an indictment or to justify legal procedure.

Now, the farm population are in most instances scattered through the country——

Mr. OVERMAN. Mr. President——

Mr. SMITH of Georgia. I yield to the Senator from North Carolina.

Mr. OVERMAN. I wish to read, as it has not been read, I think, from what is known as the Clayton Act, showing that these corporations have been exempted from the Sherman antitrust law.

Mr. SMITH of Georgia. I will come to that in a few moments. I do not think they have. I have that provision here before me, and I will come to that in connection with my discussion, if the Senator will allow me.

The farmers, as a rule, are scattered through the country, and they are easily deterred and discouraged about making cooperative business organizations. Instead of being discouraged, I think they should be encouraged.

The Senator from North Carolina suggests that in the Clayton Act we have taken care of this subject.

Mr. OVERMAN. No; I did not say that. I am in favor of the bill, but it is insisted here that we propose now to exempt them from the Sherman antitrust law, when we have already tried to exempt them, whether we have done it or not, in section 6 of the Clayton Act.

Mr. SMITH of Georgia. We have in a measure exempted them under section 6 of the Clayton Act, but I will call attention to why the pending bill goes substantially further than the Clayton Act did.

The Clayton Act, in section 6, provides that—

Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit—

It has been found necessary in western States to perfect such organizations by corporations and with capital stock. I believe that the first suggestion of this legislation came from the West, from organizations of that kind. I am not sure that the language I have quoted is broad enough even as to organizations other than corporations having capital stock. This bill proposes to make it so clear that there can be no doubt on the subject; this bill is intended to invite cooperative selling by farmers' organizations, and clearly shows that they can be interfered with only as the terms of the bill provide. I think that would, undoubtedly, be the effect of the language "any law to the contrary notwithstanding."

However, the bill then goes further. It provides specifically for the application of the "rule of reason" to these organizations. It provides that if, by their operations, they should unduly enhance prices they can be enjoined. They have, however, the advantage of knowing that they are not to be indicted, that their work will continue without interruption, unless, either by investigation on the part of the Department of Agriculture or the Federal Trade Commission, whichever is finally determined upon, the decision is rendered that their organization has gone to an extent where it unduly enhances prices. Then they may desist from that part of their work which is condemned and go on with the remainder; and they can only be legally stopped through the restraining order of a United States district court judge if they insist upon continuing their work.

Mr. POMERENE. Mr. President, will it interrupt the Senator from Georgia if I ask him a question?

Mr. SMITH of Georgia. No.

Mr. POMERENE. I desire to do so because I wish to get the construction which he places on this measure. On page 2 of the bill, beginning with line 6, is the following language:

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per cent per annum.

Then, the first part of section 2 reads:

SEC. 2. That if the Federal Trade Commission shall have reason to believe that any such association restrains trade or lessens competition to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, the commission shall serve upon such association a complaint stating its charge in that respect, to which complaint—

And so forth.

I believe in marketing organizations, provided that they can be organized in such a way as will be just both to the producer and the consumer. Evidently it was the purpose of the draftsman of this bill to limit the profits which might be derived from such associations to 8 per cent on their capital stock or to 8 per cent upon the value of their membership. However, is that going to reach the situation? Suppose that a dozen men who are engaged in the same enterprise were to form such an organization. Under the terms of the organization, if there were $100,000 of capital stock, the association would be limited to 8 per cent, or if the cost of membership was $1,000 per member then they would be limited to 8 per cent on twelve times $1,000. I think I properly construe that, do I not?

Mr. SMITH of Georgia. I think so.

Mr. POMERENE. I assume, of course, that in practical operation it will be the purpose of the 12 men to sell to the association, and the association then will sell to the public; but what is there here in this language to prevent the 12 men from entering into some sort of an arrangement outside of their association whereby they will not sell to the association, to use an extreme case by way of illustration, for less than twice what would be regarded by all fair minds as a fair price for their products? Is there anything to prevent that?

Mr. SMITH of Georgia. In the first place, Mr. President, I desire to say that I do not anticipate any such plan of organization. I would regard the association managers as stupid if they allowed 12 men to select a class of commodities—take, for instance, wheat—and induce the association to pay those 12 men twice the market value of the wheat. What would they do with it afterwards? They would be in competition with the remainder of the wheat production of the country.

Mr. POMERENE. Mr. President, with all due respect to the Senator, that is not answering my question. I am taking a purely hypothetical situation, and I am not concerned about the stupidity of the men who might do the thing; I am looking to the power. Have these men the power to form an organization, and on the business of the organization itself earn 8 per cent, and its membership boost the prices to any point which they may see fit? I care not whether it is a dozen men or a thousand men. I desire to ascertain what this means.

Mr. SMITH of Georgia. I will answer the Senator that those men can not do what he suggests. It will be utterly impossible for them to do anything of the sort. Moreover, the bill further provides for investigation into their conduct by the Federal Trade Commission or by the Secretary of Agriculture, and they could be reached in that way.

Mr. POMERENE. Mr. President, the Senator from Georgia is just touching upon the question that I had in mind. Bear in mind, please, that the language of section 2 of the bill relates only to the investigation of the association; it does not go to the investigation of the acts of the members.

Mr. SMITH of Georgia. Mr. President, if 12 men joined together to act in that way that itself would constitute an association.

Mr. WALSH of Montana. Mr. President, I suggest to the Senator from Georgia and to the Senator from Ohio that if

some of the members of the association organized a side matter they would be afforded no protection under this act. The association is restricted in its profits to 8 per cent. If some other kind of a combination is organized outside of the association by some of its members they may possibly fall afoul of the Sherman Antitrust Act or other prohibitory acts.

Mr. SMITH of Georgia. One of two things would be true: They would either be an association under this act and subject to investigation by the Federal Trade Commission or they would be outside of the act and subject to indictment under the Sherman antitrust law.

Mr. POMERENE. Now let us see. I am interested in understanding this matter. I want some relief if we can provide it, and I am going to try to provide relief if we can get it, but I do not propose to lend myself knowingly, if I can, to a measure which may be so construed as to make things worse than they are.

Let me illustrate. We have mentioned wheat. Let me give another illustration. Suppose, for the sake of the argument, that in the District of Columbia the dairymen organized an association of this kind. It is true that on its face the bill provides that such an association shall not earn more than 8 per cent, but there are ways of doing things and whipping the devil around the stump. The babies in Washington need milk.

Mr. SMITH of Georgia. Mr. President, if the Senator wishes to ask me a question, I will be glad to have him ask it.

Mr. POMERENE. I am getting to it.

Mr. SMITH of Georgia. I hope the Senator will get to it.

Mr. POMERENE. But I wish to lay a foundation for it.

Now, let us assume for the sake of the argument, that after this organization is formed their milk goes to the association. They can sell it at such a price as will net the association and its members 8 per cent on the capital invested or on the value of their membership, but suppose they say "We are not going to sell to individuals; we are going to sell to this association alone," and some of them, although it may be a mere minority, it may be one, says "I am not going to sell my milk to any outsider; I am not going to sell my milk to the association for less than $1 a quart."

Of course, everybody recognizes that is unreasonable; it is an extreme case that is not likely to happen; but it is possible to unduly boost prices. I want the dairymen not only to make a reasonable profit, but I want them to keep the milk within the reach of the babies, if they can do so. What is there in this bill which is going to prevent the dairymen from in some way or other—it may be in some way similar to the Gary dinners or something of that kind—boosting the price of milk so as to put it beyond reach.

Mr. SMITH of Georgia. Is the Senator through?

Mr. POMERENE. I ask that question.

Mr. SMITH of Georgia. When the Senator gets through I will be glad to answer him.

Mr. POMERENE. The Senator is very indulgent, but I think we both want to get at the right solution of the problem. The amendment which I would suggest to relieve the situation would be to insert, in line 11, on page 2, after the word "association," the words "or its members," so that affairs of the members can be investigated as well as this entity called an association.

Mr. SMITH of Georgia. Mr. President, if that were done, it would broaden the entire bill to the members of the association. I am scarcely prepared to say at present that it would apply to them. I am scarcely prepared to say that the bill would cover the situation of members that undertook to combine outside of the association and make two combinations; first, the members agreeing that they will only sell to the association at an exorbitant price, and then the association to sell making only 8 per cent. If the bill did cover such a situation, then the members would themselves already be subject to investigation, and their primary organization could be suppressed under the bill by investigation on the part of the Federal Trade Commission. If, on the other hand, the bill does not apply to such an association of the members, they would all be subject to indictment under the Sherman antitrust act. So they are either under the bill or they are not under the bill. If they are under the bill, they are subject to the investigation of the Federal Trade Commission. If they are not under the bill, it has not affected them at all. I will add, however, that I do not personally see any objection to adding the language that the Senator from Ohio suggests.

Mr. LENROOT. Mr. President——

Mr. SMITH of Georgia. I yield to the Senator.

Mr. LENROOT. I should like to ask the Senator whether he construes this language so that an association would not be guilty of enhancing the price unless they paid more than 8 per cent dividends? I do not so construe it.

Mr. SMITH of Georgia. I do not; no.

Mr. LENROOT. They might be guilty of enhancing prices, although they might not make a cent of profit or pay a penny of dividends.

Mr. SMITH of Georgia. I think so. I think the 8 per cent provision was put in simply to discourage any effort by an association, or by those who put their money into the association, to make money for themselves. The real work of the association is not to make money for its stockholders. The contribution of the money by stockholders is to facilitate sales for members who may not be stockholders at all; and I think that is simply a deterring provision, to prevent those who put in the money from taking advantage of those who did not put in the money, where the corporation acts for a large number of members in helping to dispose of their goods.

Mr. WALSH of Montana. Mr. President——

Mr. SMITH of Georgia. I yield to the Senator from Montana.

Mr. WALSH of Montana. I think there is a misapprehension concerning the significance of that provision to which reference is made, referring to dividends at the rate of 8 per cent. The impression seems to prevail, I gather from the discussion here, that this is for the purpose of limiting the prices which may be charged for the products sold by the association. That is not the purpose of it at all. The matter of the prices that may be charged does not come in here. That provision is incorporated by reason of a practice observed in the organization of these associations. The farmers sometimes find it exceedingly difficult ot get the proportionate subscription of money to put the plant in operation. It requires more or less capital to conduct a selling agency. Some of them, therefore, contribute their capital, and they have thus a capital stock. The plan of all these associations is to pool all their products, and to divide ratably among the members the total avails of the operations, whatever they may amount to.

For instance, there are a hundred members, and each contributes exactly the same amount. The avails, whatever they are, the profits of the business, are divided proportionately. If one contributes 50 per cent, he gets 50 per cent of the profits, whatever they are; if one contributes only 5 per cent, he gets 5 per cent of the profits, and so on down the line. But it is found necessary to get in capital, and the provision is that those who contribute the capital shall get only 8 per cent on their capital. Then, after that 8 per cent on the capital is paid, the remainder of the avails, of the profits, whatever they are, is divided ratably among the members. It is not intended by any means—that ought to be understood perfectly—that these corporations shall not make more money than 8 per cent upon their capital stock involved, and that they must graduate their prices so as not to produce more than that return.

The matter is illustrated, for instance, by the raisin growers' association in the State of California. Here are a lot of people engaged in the business of growing raisins. The organization of this association and the establishment of agencies throughout the United States, as they have them, with bonded agents and with warehouses and all that kind of thing, calls for the investment of capital. Some of the members of the association are rich enough to take some capital stock. Others are not rich enough to do that. So those who are rich enough put in money in order to provide the necessary capital for the operation, and on that money capital thus contributed they get 8 per cent annually, and the rest of the profits of the business are divided ratably among the members; and it is such an organization as that that is contemplated here.

Mr. SMITH of Georgia. And the 8 per cent limitation is intended as a protection to the membership who are not capital owners against the membership which may be large capital owners.

Mr. WALSH of Montana. Exactly; the Senator is correct about that. Now, under section 6 of the Clayton Act an association can be protected only when it has a membership without capital stock; and it was intended to extend this to associations that have capital stock, but that did not pay more than 8 per cent on that capital stock, the remainder of the avails to be divided exactly as the avails are divided among the associations organized under section 6 of the Clayton Act.

Mr. SMITH of Georgia. Mr. President, I shall not take more time. I hope we can reach a vote. I really did not intend to take so much time; but Senators have asked questions, and this has led to discussion and consumed time.

Mr. LENROOT. Mr. President, I think it ought to be frankly acknowledged by every Senator that this bill does repeal the terms of the Sherman Antitrust Act so far as the associations named in the bill are concerned. That is the object of it, and unless that is done I can see no purpose in the bill. I believe it ought to be done.

We have heard much during this debate concerning the alleged clarification of the Sherman antitrust law; that the "rule of reason" now prevails; and it was stated in debate yesterday that the provisions of this bill with regard to unduly enhancing prices are practically analogous to the construction of the Sherman antitrust law as it now is interpreted by the Supreme Court of the United States.

I can not agree with that. It seems to me that the so-called "rule of reason" of the Sherman antitrust law has made of that law a piece of legislation that no one understands, and that no one can tell whether he is violating it or not until a court passes upon the individual and particular case.

Mr. SMITH of Georgia. And the Supreme Court judges themselves differ about it.

Mr. LENROOT. Exactly.

Mr. SMITH of Georgia. In their latest decision they stood three to four, I believe.

Mr. LENROOT. The so-called "rule of reason" of the Sherman antitrust law is defined to be that the Sherman antitrust law prohibits an unreasonable or undue restraint of trade. What is an unreasonable or undue restraint of trade no living man can tell, except as the courts may apply this so-called "rule of reason" to the particular facts in a particular case.

As to whether or not these associations should be exempted from the Sherman antitrust law, we hear it said that this is conferring a special privilege upon one class of the American people, and that there ought not to be any such discrimination. What was the original purpose of the Sherman antitrust law, Mr. President? What is the object of the Sherman antitrust law? The object of the Sherman antitrust law is to cure an evil, and where an evil does not exist the Sherman antitrust law ought not to apply. This Congress has observed that rule in regard to the Edge bill. It is exactly the same principle. Why, some of the same Senators who urged that exemption in the Edge law believe—and if they think that these farmers' organizations are injurious, they are correct in saying so—that this ought not to be conferred upon farmers; but it is a privilege of exemption in one case just exactly as much as it is in the other.

Mr. EDGE. Mr. President——

Mr. LENROOT. I yield.

Mr. EDGE. Does not the Senator see a distinct difference between an exemption that provides entirely for business beyond the seas, in competition with business men of other countries, and an exemption which clearly provides for business within the boundaries of the United States?

Mr. LENROOT. Not in the exemption. There may be a distinction as to the reason for the exemption. The Senator from New Jersey and I may disagree. I may believe, as I do believe, that farmers' organizations should be exempted from the provisions of the Sherman antitrust law just as fully as combinations of exporters, because they are both in the public interest.

Mr. EDGE. Mr. President, does not one deal entirely with the exercise of that privilege in dealing with purchasers in other countries of the world, while the exemption for the farmers here is, as I understand, for the purpose of dealing in farm products with the people of our country in our own markets?

Mr. LENROOT. That, again, only goes to the reason for the exemption and not the exemption itself. The Senator urges the exemption in his case. Why? Because he took the position that it would be beneficial to have the Sherman antitrust law exempt that class of business; that is all.

Mr. EDGE. Across the sea.

Mr. LENROOT. Across the sea. It does not make any difference where it is; if it is beneficial to the public that any class of business men or producers should be exempted from the antitrust law, they should be exempted.

Mr. POINDEXTER. Mr. President, I might suggest to the Senator from New Jersey that he admitted by the introduction of his bill that the class of people whom it relieved were, prior to the enactment of that bill, subject to the terms of the antitrust law.

Mr. LENROOT. Certainly; and unquestionably they would be.

Mr. POINDEXTER. He admitted that they were one of the classes covered by the act, and he introduced the bill for the purpose of relieving them from the effects of the act.

Mr. EDGE. Mr. President, I must differ with the Senator from Washington. The principle of exemption for American producers, either farmers or manufacturers or what not, when their activities are beyond the sea, was established, if I am not mistaken, by the passage years ago of the act known as the Webb-Pomerene Act; and the so-called Edge Act simply followed up that policy, already established, in order that their activities abroad could be financed.

Mr. LENROOT. However that may be, Mr. President, there is only one reason—there could be no other reason—for the exemption of combinations of exporters. That reason was that that combination would not be harmful to the public; and if, upon the other hand, a combination of farmers is not harmful to the public, there is exactly the same reason for the exemption of farmers' associations as there is for the exemption of combinations of business men in the export business.

Mr. EDGE. I agree absolutely with the Senator, if their activities, as in the other case, are entirely in disposing of their goods abroad.

Mr. LENROOT. The question is not whether they are disposing of their goods abroad. The question is, Is the combination harmful or helpful to the people of the United States? That is the test and must be the test.

Of course, if the Senator from New Jersey [Mr. EDGE] believes that farmers' organizations, doing the things it is proposed that they be permitted to do under this bill, are harmful, then of course the Senator is correct in saying they should not be exempted from the provisions of the Sherman law. But the Senator is incorrect in saying that we must have a law of general application, and that it shall apply to all alike, because it does not now apply to all alike, and combinations under the bill which bears his name are now exempted from the provisions of the Sherman antitrust law.

Mr. EDGE. Not doing business in America.

Mr. LENROOT. That has nothing to do with the question. They are exempted from the provisions of the Sherman antitrust law in so far as certain business is concerned, just as it is proposed as to these farmers' organizations.

Then, again, Mr. President, I think we should all bear in mind that the Sherman law as now interpreted does not now apply equally to all. For instance, we will take the United States Steel Corporation, which has been given a clean bill of health by the Supreme Court as not being in violation of the Sherman antitrust law. Does anyone believe if the 10,000 or more stockholders of the United States Steel Corporation had done the things through association and combination the United States Steel Corporation as a single entity did that that association or combination would not have been declared in violation of the Sherman antitrust law by the Supreme Court? I think every lawyer will admit, must admit, that if those same things had been done by a large combination of individuals the Supreme Court would have held that to have been in violation of the Sherman antitrust law.

Industry can form great corporations, like the United States Steel Corporation, and various other kinds of corporations. Stockholders of competing businesses may join in one great corporation, and they may transact business and be exempt by reason of their corporate capacity, entering into one single entity, where the Sherman antitrust law will not apply.

It is not possible, it is not practicable, for the farmers to do likewise. Farmers can not do business by forming large corporations as industry can. And ought not farmers be permitted through association to do the same things at least that stockholders are permitted to do through the means of corporate organization? So that that is a very compelling reason, it seems to me, why they should be treated differently.

As to the Sherman antitrust law as interpreted by the Supreme Court, with the "rule of reason" that we now have, we appear to have come to a state where there is no possibility apparently of curing the evils that the Sherman antitrust law was designed to cure. The Standard Oil Co. controls the price of oil to-day perhaps more effectually than it ever did. What evil that the Sherman antitrust law was designed to cure has been cured through the administration or enforcement of that law? Whether it can be done or not I am not prepared to venture an opinion now, but we seem to have reached a stage where the administrative part of this Government has given up the idea of reaching the great trusts and combinations which are really injurious to the public and are devoting their time to prosecuting associations of farmers and others where they believe they can secure a conviction through technicality.

Reference has been made a number of times to the indictment and prosecution of certain fruit growers in the State of California. I was in California last fall when those indictments were handed down. Those prosecutions are being conducted to-day. I venture the opinion that in so far as reasonable prices to the public are concerned there will be more relief to the public from undue prices under the provisions of

this bill than any relief that has ever been had under the enforcement of the Sherman antitrust law.

Now, with reference to the amendment suggested by the Senator from Ohio [Mr. POMERENE]. Did I understand him correctly to say that he would provide that not only the association or combination shall be held to be guilty of an unlawful practice if they enhance the price unduly, but that any individual member of a farmers' association who may exact or receive what the Federal Trade Commission may believe to be an unduly enhanced price shall also be guilty?

I do not believe that the Senator from Ohio would desire to have a law apply to a farmer, a producer of agricultural products, that he would not apply to a manufacturer, a business man, or any other class.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER (Mr. MCKELLAR in the chair). Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LENROOT. I yield.

Mr. POMERENE. The Senator misapprehended the purpose that I had in mind. Maybe I did not make myself clear, but my purpose was to provide that if the Federal Trade Commission was to take jurisdiction with a purpose of investigating and determining what they would do, they should have the right to investigate the individual member as well, in his capacity as a member of the association.

Mr. LENROOT. I do not question that; but if I understood the Senator correctly, he would give to the Federal Trade Commission the same power of control over the price exacted by an individual member for his product that he would over the association. If I am incorrect in that, I would be glad to be informed.

Mr. NELSON. Mr. President, the principle of the Senator from Ohio would make the members of a corporation who had stock in one of these associations personally liable, like members of a partnership, and it would in that respect be utterly destructive of all corporation law. One of the objects of creating corporations is to so provide that individual stockholders may not be personally liable, except in proportion to the amount of stock they hold or in cases of double liability. In the case of a partnership, however, each partner is liable for all the actions of the firm, and this would be a discrimination; this would put the farmers in a different position from the stockholders or members of any other corporation in the country.

Mr. LENROOT. Mr. President, so far as investigating the activities of the members of the associations or corporations is concerned, certainly it seems to me that that authority is granted under the bill as it now stands. That would necessarily follow, that in determining the lawfulness of the action or activities of a corporation or the association itself, the individual activities of the members must be investigated. But the test will be—and I do not think it ought to go any further—is it due to the formation or the action of this association in any way, directly or indirectly, that prices are unduly enhanced? If so, they come within the ban of the bill and within the jurisdiction of the commission.

Mr. POMERENE. Mr. President, I think I stated pretty clearly before that I was in favor of these marketing organizations. If it means simply a proper distribution of the products at reasonable rates I have not any objection to it.

But as I see this bill, in the way it is now framed, there is nothing in it to prevent a combination of men who are dealing in food products—and I refer to the dairymen—from getting the most exorbitant prices, and doing it at the expense of the babes of the country. If I am wrong about that, I would like to have it pointed out wherein I am wrong. I want to do the right thing, but it does seem to me that the Congress ought to give some consideration to the welfare of the poor, who must buy, and of the babes of the country, who ought to live and prosper and grow to manhood and womanhood.

If this bill is going to take care of that situation, then I am going to favor it; but if it is not going to take care of that situation, I scarcely know what ought to be done. I realize the influence that is back of this bill, and I want to help it if I can. In many respects it has my sympathy; but other people have my sympathy as well. I recognize the fact that that is a very impolitic thing to say; but I try to say what my sense of duty impels.

Mr. LENROOT. Mr. President, if I follow the argument of the Senator from Ohio, he seems to be of the opinion that if this association pays a certain price for an agricultural product to the members of that association, and then sells it at only a reasonable profit, the association is exempt from the provisions of this bill. I do not so understand it at all. As a matter of fact, the association might not make one penny of profit, but if, through means of this association, the producers receive two or three times what their product is worth, the provisions of this bill as to an enhanced price immediately apply.

Mr. POMERENE. Mr. President, that is just one of the things that I want to be sure of. I do not believe the present bill will do what the Senator from Wisconsin suggests it will do.

Mr. LENROOT. Let us see.

Mr. POMERENE. Will the Senator pardon me just a minute? I used the illustration a while ago of the dairymen. Suppose the dairymen simply use their association as a sort of a shield by which to protect them in some sort of an arrangement—it may be expressed, it may be implied, it may be one of those things that happens whereby they may hoard, or they may do something whereby they get a price which all fair-minded men would grant was an exorbitant price, an unconscionable price, and the consumers of milk are made to suffer by reason of it. Is it the judgment of the Senator from Wisconsin that this bill meets that situation and will prevent it?

Mr. LENROOT. Certainly. Mr. President, what would be the test in the case the Senator suggests? We will say an association is a selling agency for all the milk producers in a certain locality, so that there is but one selling agency, and there is one price fixed. The question that would be at once asked and determined is, Is it because of the existence of this association that there is an undue and exorbitant price the consumer is compelled to pay for milk? Would he be compelled to pay it if this association did not exist?

THE MEAT-PACKING INDUSTRY—LIVE-STOCK COMMISSION.

The PRESIDING OFFICER (Mr. MCKELLAR in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The READING CLERK. A bill (S. 3944) to create a Federal live-stock commission, to define its powers and duties, and to stimulate the production, sale, and distribution of live stock and live-stock products, and for other purposes.

Mr. KENYON. Mr. President, it is the purpose of those in charge of the bill to accommodate the Senator from Minnesota [Mr. NELSON] by laying it aside temporarily, but we want to have a unanimous-consent agreement entered into if it can be done. If it does not break too much into the discussion of the Senator from Wisconsin [Mr. LENROOT], I should like to present a request for unanimous consent that we may vote on the bill now before the Senate, known as the packers bill, on Monday, January 24 next.

I will state the reason for putting the time so far ahead at present. It would undoubtedly be reached for a vote before that time, but the Senator from Illinois [Mr. SHERMAN], who is very much opposed to the legislation, is sick and can not be here until after the holidays. We want to take no advantage of the Senator from Illinois, but want to give him ample time. I have consulted with the Senator from Utah [Mr. SMOOT] and various Members of the Senate, and there seems to be no objection to the proposed agreement. It will require a roll call, I assume, and if there is any objection to it it can be made now.

Mr. NELSON. Mr. President, I understand the so-called packers bill is brought up now for the purpose of disposing of the proposed unanimous-consent agreement, and after that is disposed of the bill which we have been debating this morning will be again placed before the Senate.

Mr. KENYON. We will lay the packers bill aside temporarily as soon as the unanimous consent is secured.

Mr. POMERENE. Mr. President, I am not in the habit of trying to interfere with the consideration of bills. I like to have them acted upon promptly; and I do not think anyone can accuse me of trying to filibuster. But the Senator from Wisconsin [Mr. LENROOT] and myself seem to be a good deal at variance as to the proper construction to be placed upon the language of the bill which has been under discussion. I would just a little bit rather that that bill should not be voted upon this afternoon. I would like to investigate the subject somewhat further.

Mr. KENYON. The unanimous-consent request which is now pending has nothing to do with the bill which the Senator from Wisconsin has been discussing.

Mr. POMERENE. I did not hear the request of the Senator from Iowa.

Mr. KENYON. The request I am making for unanimous consent relates to the so-called packers bill and has nothing to do with the bill under consideration this morning. We are asking unanimous consent to vote on the packers bill at a certain time.

Mr. POMERENE. I made my observation in view of the statement made by the distinguished Senator from Minnesota

[Mr. NELSON] as to his understanding about the other bill. I am not making any objection to the unanimous-consent agreement.

The PRESIDING OFFICER. The Secretary will read the proposed unanimous-consent agreement for the information of the Senate.

The reading clerk read as follows:

It is agreed by unanimous consent that at not later than 4 o'clock p. m. on the calendar day of Monday, January 24, the Senate will proceed to vote, without further debate, upon any amendment that may be pending, any amendment that may be offered, and upon the bill (S. 3944) to create a Federal live-stock commission, to define its powers and duties, etc., through the regular parliamentary stages to its final disposition, and that after the hour of 2 o'clock p. m. on said calendar day no Senator shall speak more than once or longer than five minutes upon the bill, or more than once or longer than five minutes upon any amendment offered thereto.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. UNDERWOOD. Mr. President, I should like to ask the Senator in charge of the bill a question. The unanimous-consent agreement provides for voting upon the bill on the 24th of January. I myself have no objection to fixing that date, but what does it mean in reference to the disposition of other business between now and the 24th of January? Does the Senator propose to keep the bill continuously before the Senate during the intervening time?

Mr. KENYON. No; one of the objects to be accomplished is that we can transact other business. Apparently there is a disposition to debate the bill at great length.

Mr. UNDERWOOD. If an effort is made to take up other business, if this is agreed to, there will be no resistance on the part of the Senator?

Mr. KENYON. Not at all.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Harrison	McNary	Simmons
Beckham	Heflin	Moses	Smith, Ariz.
Borah	Henderson	Nelson	Smith, Ga.
Brandegee	Hitchcock	New	Smith, Md.
Calder	Jones, Wash.	Norris	Smith, S. C.
Capper	Kendrick	Nugent	Smoot
Curtis	Kenyon	Overman	Spencer
Dial	King	Page	Sterling
Dillingham	Kirby	Phipps	Sutherland
Edge	Knox	Pittman	Townsend
Fletcher	La Follette	Poindexter	Trammell
France	Lenroot	Pomerene	Underwood
Gronna	McCumber	Ransdell	Wadsworth
Harris	McKellar	Sheppard	Walsh, Mont.

Mr. KING. I desire to announce that the senior Senator from Oregon [Mr. CHAMBERLAIN] is detained on account of official business, and that the junior Senator from South Dakota [Mr. JOHNSON] is detained on account of illness.

The PRESIDING OFFICER. Fifty-six Senators having answered to their names, there is a quorum present. The Secretary will read the request for unanimous consent submitted by the Senator from Iowa.

The reading clerk read as follows:

It is agreed by unanimous consent that at not later than 4 o'clock p. m. on the calendar day of Monday, January 24, the Senate will proceed to vote without further debate upon any amendment that may be pending, any amendment that may be offered, and upon the bill (S. 3944) to create a Federal live-stock commission, to define its powers and duties, etc., through the regular parliamentary stages, to its final disposition, and that after the hour of 2 o'clock p. m. on said calendar day no Senator shall speak more than once or longer than five minutes upon the bill, or more than once or longer than five minutes upon any amendment offered thereto.

The PRESIDING OFFICER. Is there objection?

Mr. JONES of Washington. I understand from the reading that no vote can be taken on the bill until the 24th of January?

The PRESIDING OFFICER. The wording of the agreement is not later than 4 o'clock p. m. on the calendar day of Monday, January 24.

Mr. JONES of Washington. And no vote is to be taken on any day before January 24?

The PRESIDING OFFICER. Of course not. Is there objection?

Mr. WALSH of Montana. Mr. President, I am sure that is not the interpretation that has already been given to unanimous-consent agreements of that character. It says "not later than 4 o'clock on January 24."

Mr. KENYON. It is the intention to vote on January 24, not later than 4 o'clock.

Mr. WALSH of Montana. Then it is understood there will be no vote prior to January 24?

Mr. KENYON. There will be no vote prior to that time.

Mr. SMITH of Georgia. But the unanimous-consent agreement would permit a vote before that time.

The PRESIDING OFFICER. On that date.

Mr. KING. If there is any controversy in respect to that matter, I suggest that it be amended, because the clear understanding is that no vote shall be taken until that day.

The PRESIDING OFFICER. The Secretary will again read the proposed unanimous-consent agreement so that Senators may assure themselves of its import.

The reading clerk again read the proposed unanimous-consent agreement.

Mr. KENYON. If it is not clear, simply make it read that on January 24 the vote shall be taken.

Mr. SMOOT. It is the regular form.

Mr. KENYON. This is the regular form that has been used heretofore.

Mr. KING. That language has been construed heretofore as meaning that day, and I am entirely satisfied.

The PRESIDING OFFICER. It is the calendar day that is mentioned, and the proposed agreement is in the usual form. It seems to be clear enough unless the author of the unanimous-consent agreement wishes to change it.

Mr. KENYON. I do not care to change it. I think there is no question raised by anyone trying to secure any other construction than what is plainly intended, the 24th of January, and nothing else will be attempted to be done of course.

Mr. WALSH of Montana. I suggest that the suggestion offered by the Senator from Iowa be adopted to make it perfectly plain that on that day——

Mr. KENYON. There is nothing else intended.

Mr. WALSH of Montana. At not later than 4 o'clock.

Mr. KENYON. The Secretary may make the change.

Mr. HARRISON. Mr. President, I wish to inquire why the date of January 24 is fixed in the proposed unanimous-consent request. In figuring it out, we know that the Congress will close on the 4th of March. Does the Senator who made the request know whether it is possible to get the matter up in the House and get it through in this Congress if we put it off until such a late date in the Senate?

Mr. KENYON. I do not know what it may be possible to do in the House. There is no reason why the House should not proceed during the intervening time, if they desire to do so. I will state the reason for fixing that date. I think the bill could be forced to a vote long before that time, but the Senator from Illinois [Mr. SHERMAN] is ill and unable to be here. He is very strongly opposed to the measure. We do not want to take any advantage of him and want to give him every opportunity to come here and make his fight against it. There are other Senators who are compelled to be away for a week or ten days in the middle of January, who are interested upon the other side of the bill. It was simply to accommodate everybody that we fixed this date. I realize that the date is late. I wish the bill could be voted upon long before that time, but under the circumstances it seems to be impossible.

The PRESIDING OFFICER. Is there objection to the unanimous-consent agreement?

Mr. GRONNA. Mr. President, I just wish to say a word as one of the members of the committee which had the bill under consideration. I had hoped that it would be possible to vote upon the bill before January 24, but, as the Senator from Iowa [Mr. KENYON] has stated, certain Senators are away, the Senator from Illinois [Mr. SHERMAN] is ill, and we do not wish to take any advantage of any Member of this body. It is not only possible but it is probable that the date suggested will be too late for the other House to pass the bill at this session, although it will give them considerable time.

At first I was not in accord with the postponement of this measure to the late date proposed, but as the friends of the measure and those who are the sponsors of the bill and have done more to advance it than have any others concurred in this action, I said that I should not oppose the unanimous-consent agreement to take a vote at the late day suggested. I simply desire the RECORD to show my position.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the unanimous-consent agreement is entered into.

The unanimous-consent agreement is as follows:

It is agreed by unanimous consent that on the calendar day of Monday, January 24, 1921, at not later than 4 o'clock p. m. on said day, the Senate will proceed to vote, without further debate, upon any amendment that may be pending, any amendment that may be offered, and upon the bill (S. 3944) to create a Federal live stock commission, to define its powers and duties, and to stimulate the production, sale, and distribution of live stock and live-stock products, and for other purposes, through the regular parliamentary stages to its final disposition, and that after the hour of 2 o'clock p. m. on said calendar day no Senator shall speak more than once or longer than five minutes upon the bill or more than once or longer than five minutes upon any amendment offered thereto.

Mr. KENYON. I ask the Senator from North Dakota if he will not now ask that the unfinished business may be laid aside?

Mr. GRONNA. I ask that the unfinished business may now be laid aside.

The PRESIDING OFFICER. The Senator from North Dakota asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered.

ASSOCIATION OF PRODUCERS OF AGRICULTURAL PRODUCTS.

Mr. NELSON. I ask that the Senate may proceed with the consideration of the bill (H. R. 13931) to authorize association of producers of agricultural products.

The PRESIDING OFFICER. The Senator from Minnesota asks unanimous consent that the Senate may proceed with the consideration of the bill named by him. Is there objection?

Mr. UNDERWOOD. Mr. President, I wish to say to the Senator from Minnesota that I am not going to object at this time to the consideration of the bill, but I desire to make a statement before unanimous consent is granted for the consideration of the bill. There is a bill pending here to incorporate nitrate plants of the Government. I think it is of very great importance, and the Senator from South Carolina [Mr. SMITH], who reported the bill and is in charge of it, gave notice on yesterday that after the packers bill was disposed of he intended to ask for the consideration of the nitrate bill. The Senator from South Carolina is not on the floor just now, and I do not suppose if he were he would care to contest with the Senator from Minnesota as to the consideration of his bill; but I did not want the statement of the Senator from South Carolina to be foreclosed by taking up the pending matter until he came back. I only desire to say that some of the Senators on this side of the Chamber who are very desirous of having the nitrate bill considered do not want to waive any rights which we may have in the matter.

The PRESIDING OFFICER. Is there objection to the consideration of the bill asked for by the Senator from Minnesota [Mr. NELSON]?

Mr. FRANCE. Mr. President, I do not wish to object to the consideration of this bill, although I had hoped to have taken up to-day a measure of very great importance, being Order of Business No. 602, Senate bill 3259. It is a bill which is known as the maternity and infancy bill. I anticipate that the bill will cause very little debate and will be very promptly passed. I hope that I shall have an opportunity, when we shall have disposed of the measure which we shall shortly have before us, to move the consideration of the measure which I have named. I repeat I anticipate that it will cause very little debate and be promptly disposed of. I shall make an effort this afternoon or to-morrow at the close of the morning business to have that measure placed before the Senate for its consideration and decision.

Mr. SMOOT. I have only just entered the Chamber, and I ask the Senator from Maryland is he speaking of Senate bill 3259?

Mr. FRANCE. Yes.

Mr. SMOOT. Mr. President, I think that I may be prepared this afternoon to offer an amendment to that bill; and if so, I desire to offer it this afternoon, in order that it may be printed by to-morrow.

Mr. FRANCE. It would be very helpful if the Senator would do so. I believe the amendment is one which will improve the administrative features of the bill very materially, and I shall be very glad to have it printed, in order that the Senate may have the amendment before it to-morrow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota [Mr. NELSON] for the consideration of the bill named by him?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 13931) to authorize association of producers of agricultural products.

Mr. LENROOT. Mr. President, with respect to the fear of the Senator from Ohio [Mr. POMERENE] that the provisions of the bill as drawn will not reach a situation such as he has outlined, I wish to call his attention to the fact that the only business that an association organized under this bill can do is in the preparing, handling, and marketing of the products of its own members. A member dealing with this association, selling his products to the association, will be, to an extent, dealing with himself; he will be selling to an association that represents him. If the association should pay to its members an exorbitant price for their products and then sell to the public even only at a slight advance, it would clearly, it seems to me, be within the jurisdiction of the commission to make an order requiring the association to desist from paying an exorbitant price, as well as selling at an exorbitant price. It must be so; it can not be otherwise; because certainly the provision with reference to 8 per cent dividends has nothing to do with the proposition, Does the existence of the association unduly enhance prices to the public? If it does, the commission can reach back; and it would be no defense on the part of the association that it paid its members almost the same price for the products that it charged to the public. So, it seems very clear to me, that in order to reach the evil of which the Senator from Ohio very properly complains, which might exist under some circumstances, the bill makes ample provision.

Mr. KING. Will the Senator from Wisconsin yield to me?

Mr. LENROOT. Yes.

Mr. KING. Does the Senator contend that under the language of the bill farmers who effect an organization may deal only with that organization and through that organization? In other words, may not a number of organizations combine in a nation-wide or state-wide combination of organizations of different classes embraced in the bill for any purpose which is embraced within the words "marketing" and "processing" and disposing of or selling?

Mr. LENROOT. That question was raised yesterday, and I am glad to give my opinion for whatever it may be worth. I think that under this measure there might be various kinds of organizations, and that they could all combine into one new organization. I do not believe, however, that under the terms of the bill an organization of wheat farmers could combine with an organization of cotton growers and the association of wheat growers sell cotton or deal with it in any way.

Mr. KING. But could they combine with the millers or with the warehousemen?

Mr. LENROOT. Certainly not. A miller would not be within the terms of the proposed law at all, nor would a warehouseman.

Mr. KING. Could they not combine for the purpose of erecting mills and warehouses in order to grind their grain and then store the product and hold it for an indefinite period for the purpose of disposing of it?

Mr. LENROOT. They might, for instance, subscribe to the capital stock of an elevator; they could do that; I have no doubt about it.

Mr. KING. Might not the ranchmen—that is the word that is used in the bill—erect packing establishments, buy refrigerating cars, and do all the things that the packers now do and take care of the by-products, and for that purpose launch out into all sorts of business and combine for the purpose of maintaining prices and creating monopolies with respect to the commodities in the production of which they are engaged?

Mr. LENROOT. They could not, for this reason: As I said a moment ago, the members of the association are confined to dealing in the things produced by their own members—in agricultural products. They can not combine these associations and attempt to monopolize the food products of the country as the packers do; they can not go into the wholesale grocery business; they can do nothing of that kind. They are confined to dealing with the things that the members themselves produce; that is all.

Mr. KING. I think the interpretation of the Senator is the one, doubtless, which the members of the committee desire to have placed upon the bill, but I doubt whether that interpretation is the one which will be followed.

Mr. LENROOT. I think, if the Senator will examine section 1, there can be no other interpretation. The language is:

> That persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of their members—

And so forth.

In other words, one member of an association, as I view the terms of the bill, can not buy a thousand bushels of wheat in the market and deal with it through the association. So there can not be the slightest danger of a situation arising such as the junior Senator from Ohio suggests, that the farmers or the ranchmen might grow into a colossal monopoly greater than that of the meat packers.

Mr. WALSH of Montana. Mr. President, I rose to say something with respect to the inquiry made by the Senator from Ohio [Mr. POMERENE], but before doing so I desire to advert to the colloquy precipitated by the question addressed to the Senator from Wisconsin by the Senator from Utah. The evil of combination, as we understand it, has always arisen

from the combination of corporations—that is to say, from various associations combining. This bill does not permit the combination of various associations at all. I am inclined to think that, perhaps, the bill is weak in that respect. I think there ought to be a provision for the federation of marketing associations on the plan of the California Fruit Growers' Association; but this bill does not permit that. It does, however, beyond a doubt, permit a number of hog raisers, if they see fit to do so, to erect a packing house in which their own product will be treated, but such a packing house can not engage generally in the purchasing of hogs on the market, the product of others not belonging to them. So I apprehend that the fear that may enter the minds of some that associations of farmers will become formidable rivals of the great packing institutions of the country has very little foundation.

This measure is very restricted. In the first place, the association must be one of persons and not of corporations. If it were an association of associations, a federation, the federation would not be handling the products of its members, because its members would be the associations, which would have no products of their own; they would simply have the products of some one else, namely, members of those associations.

Now, Mr. President, a word or two with respect to the views suggested by the inquiry of the Senator from Ohio.

It is an error to suppose that this bill is intended to remedy the evil arising from the exaction of high prices by the producers of agricultural products. That is an evil, if the evil exists, to be taken care of by some other legislation. This legislation does not undertake to reach that. This legislation authorizes combinations of growers or producers of agricultural products; but inasmuch as a combination of that character might result in the exaction of unjust, unduly high prices by the association, provision is made that this association shall not exact high prices. But, Mr. President, when the members of that association—not the association itself, but the members of that association, outside of the association—engage in some arrangement or device by which prices are unduly enhanced, they are in the same situation as a similar association or combination by producers of agricultural products who are not members of the association at all, and are to be dealt with in exactly the same way.

To illustrate for the benefit of the Senator from Ohio, here is a man engaged in the dairy business. He does not join any association at all. His neighbors all join the association. Now, if the association charges unduly high prices for its products or otherwise restrains trade, it is brought under the jurisdiction of the Federal Trade Commission; but the man who is not a member of the association at all, if an amendment such as is suggested by the Senator from Ohio is incorporated in the bill, will not be subject to any control whatsoever. In other words, the matter of controlling the prices charged by individuals is a subject of entirely different legislation, and, it seems to me, has no place here at all. It would be quite unjust, it seems to me, to bring before the Federal Trade Commission a member of this association who has conducted his business in a way that is not in accordance with good morals, while his neighbor, who is not a member of the association, is at perfect liberty, at least so far as this law is concerned, to do as he pleases.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Ohio?

Mr. WALSH of Montana. I do.

Mr. POMERENE. Now, we have this situation: My contention has been that under the present framework of this bill the members of the association, while continuing their membership in it, could go on and exact exorbitant prices for their products from the association.

Mr. WALSH of Montana. From the association?

Mr. POMERENE. From the association, and that they would not be amenable to the law or to the public for those exactions. When I make that suggestion the very able Senator from Wisconsin [Mr. LENROOT] tells me that I am in error; that under this bill, if these members do exact excessive prices they would be amenable to the law just as the association would be. He is one friend of the measure; and now here is my very able friend, the distinguished Senator from Montana, who tells me that this bill will not meet that situation; that if there is such an evil as exacting too high prices, it must be met by other legislation.

Mr. WALSH of Montana. Mr. President——

Mr. POMERENE. Pardon me one moment.

Mr. WALSH of Montana. The Senator, I know, wants to be right about that.

Mr. POMERENE. Certainly I do.

Mr. WALSH of Montana. We want to get this correct. I was not talking about the members selling to the association at all. If the Senator presents that problem, the answer to that is quite different from the one I gave. He suggested a case where the member was not selling to the association at all, but was selling outside of the association.

Mr. POMERENE. Who?

Mr. WALSH of Montana. I understood that that was the case that the Senator put.

Mr. POMERENE. Oh, no, no. My position was that it was within their power to sell to this association at a very exorbitant price, and do that not by way of a conspiracy, but I used the illustration—perhaps while the Senator was out—that it might be under some sort of arrangement such as was used during the so-called Gary dinners.

Mr. WALSH of Montana. But if the Senator will pardon me for just a moment, that is where the error comes in. The members do not sell to the association at all. This plan does not contemplate that the members ever do sell to the association.

Mr. POMERENE. It contemplates the same thing—in other words, that they are to dispose of their products through this association. That is what it means. It means that, if it means anything at all.

Mr. WALSH of Montana. If the Senator will pardon me, let me tell the Senator the theory of the thing. They do not sell their products at all. Indeed, the association would have no power to buy under this language. There is no provision here under which an association of this character could buy the products of the members at all. It will simple handle them for the members. The members come in, and they turn in their products to the association, and the association sells them, and divides among the members whatever avails there are. That is the plan. They never sell to the association; and the Senator will find that there is no warrant in the bill for his assumption.

Mr. POMERENE. Let me ask the Senator, then, this question. Perhaps it will clear up what seems to be a difference between us. Does the Senator now claim that these individuals can go ahead, by virtue of this association, and get, let us assume, for the sake of the argument, an exorbitant price, an unconscionable price, a price that places the consumer absolutely at their mercy——

Mr. WALSH of Montana. By no means; by no means.

Mr. POMERENE. Just let me finish my question, please. Do I understand the Senator to say that that thing could be done?

Mr. WALSH of Montana. No.

Mr. POMERENE. I do not say that it would be done. My question is, Could that be done under this bill?

Mr. WALSH of Montana. The Senator must not understand me so, because the bill expressly provides that it shall not be done, and if it is done the association is brought under the jurisdiction of the Federal Trade Commission.

Mr. POMERENE. No; it is so with respect to the association itself——

Mr. WALSH of Montana. Exactly.

Mr. POMERENE. But there is no such provision here with regard to the individual members of that association.

Mr. WALSH of Montana. That is exactly what I am talking about. If these members sell their products outside of the association they are in the same situation as anybody else outside of the association; and I assert to the Senator that they can not sell inside of the association. They do not sell to the association at all. There is nothing in the bill which will authorize an association to buy the products of its members.

Mr. POMERENE. Let me put another question to the Senator to see whether we can clear up this matter. This contemplates profits.

Mr. WALSH of Montana. Certainly; of the association, to be divided among its members.

Mr. POMERENE. Yes. Pardon me; just let me finish my question. It contemplates profits, which are to be distributed either by way of dividends on the stock, if there is a capital stock, or by dividends to the members on the price of their membership. Now, if there are no sales to this association how can there be profits to the association?

Mr. WALSH of Montana. Why, I thought I made it perfectly clear. The members of the association turn in their products. Take the ordinary creamery association. Everybody understands how it runs. The creamery association is organized, with certain members. Each member turns in his milk every day. That milk is tested for butter fat. That butter fat is converted into butter, and the butter is put upon the market by the association and sold. The expenses are paid, and there is a certain surplus at the end of the year, or at the end of the month, or at the end of the quarter, or whenever the

distribution is made, and those profits are divided among the members in accordance with the amount of butter fat that each one contributes. That is the way the thing works. The members do not sell their milk to the association at all at a fixed price or at any price. They simply take their distributive share of the avails of the operation.

Now, Mr. President, these combinations, these associations which the bill authorizes, can not go into the business of buying the products of their members or of anybody else.

Mr. KING. Mr. President——

Mr. WALSH of Montana. If the Senator will pardon me a moment, I trust I have made the matter clear. Accordingly, I will say to the Senator from Ohio, the association has nothing whatever to sell except the products of its members, and the members do not sell anything to the association, so they can not charge exorbitant prices to the association; and if they sell outside of the association they are just the same as a man who does not belong to the association, and amenable to whatever laws are applicable to the case.

I now yield to the Senator from Utah.

Mr. KING. Mr. President, I am not sure that I understand the construction placed by the Senator from Montana upon this bill. I do not agree with him if I do understand him correctly in asserting that the association may not buy the products of its members.

Mr. WALSH of Montana. Let us see, if the Senator will take up that matter with me. This bill provides:

That persons engaged in the production of agricultural products, as farmers, planters, ranchmen, dairymen, or fruit growers, may act together in associations, corporate or otherwise, with or without capital stock—

How?—

in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce such products of their members.

Now, how does that authorize the associations to buy the products of their members?

Mr. KING. Mr. President, I do not think the word "collectively" there, giving to it its proper qualifying meaning and interpretation, would forbid the association to purchase from the capital stock which it has the products of the farmers; and the farmers could sell, for instance, their milk or their wheat to this corporation for a price which they, as directors of the corporation, should fix and get their profits thereupon the sale, and then, after the corporation had processed it, converted it into flour, and held it for an indefinite period, and sold it and made a profit, they could receive a dividend not exceeding 8 per cent upon the capital stock which they had in the corporation.

Mr. WALSH of Montana. But the Senator must point to something in the bill that will permit that. All that this association is entitled to do is to process the products of its members, to prepare those products for market, to handle those products, and to market those products. It does not make any difference about the word "collectively." "Collectively" is a matter of no consequence. Those are the sole powers of this corporation. Now, when the Senator says they can go out and buy the products——

Mr. KING. I think, if the Senator will pardon me, that where a corporation is organized to process or to prepare for market or to handle or to market products, it has the power to purchase them; and I do not think any construction of the powers of a corporation, if you authorize a corporation to do those things, would restrict it so that it would be prohibited from purchasing.

Mr. WALSH of Montana. The Senator is a very able lawyer, and I can not see quite how he could reach the conclusion that a corporation with powers of that character could transform itself into a commercial organization. This is really in the nature of a commission business. That is what it is.

Mr. POMERENE. Mr. President——

Mr. WALSH of Montana. Let me say that it was perfectly easy for the Congress of the United States to put in the word "purchase" if it wanted to authorize it. Of course, a court would say that the Congress did not put that word in there or did not put anything else in there which signified purchasing, and accordingly the corporation, whose powers are always construed strictly, would not have those powers.

Now I yield to the Senator.

Mr. POMERENE. Mr. President, I can answer along the same line my good friend from Montana. The fact is that the word "purchase" is not there, and it is significant that there is not anything in the bill denying the right to purchase. Let me suggest to the Senator further that it provides for an association. Ordinarily associations have certain well-defined powers. I take it that these associations can do business just about as they choose, because in the first place it says this is for "collectively processing, preparing for market, handling, and marketing in interstate or foreign commerce, such products of their members; that such producers may organize and operate such associations and make the necessary contracts and agreements to effect that purpose," and so forth. Suppose an association get together and, after they have taken counsel together, say, "Well, now, we think that the title of these products should be in this association, and we think we can buy from these members." Is there anything here denying that power? Then it says these associations when organized can make the necessary contracts and agreements to effect that purpose.

Mr. WALSH of Montana. I would like to answer that question. I say to the Senator that there is not anything in the bill denying to them that power.

The Senator is a good lawyer, and he knows that in England a corporation is presumed to have every power that an individual has, except such as are expressly denied to it in the law, but in America the rule is quite the contrary; a corporation has no powers except those which are either expressly or impliedly conveyed in the law. So I answer the statement of the Senator from Ohio that it is not forbidden in the law to do this thing; that that is not the question; the power is not given to it in the law.

Mr. POMERENE. Let me suggest to the Senator that I do not think he is quite complete in his statement. He is speaking about a British corporation, and he is contrasting a British corporation with an American corporation. Of course, all students of the subject know that an American corporation is limited in its corporate power to powers which are conferred upon it by the State. But this refers to associations "corporate or otherwise." That is the point about it, and if his argument applies to the corporate organization—and it does not do that—it applies to associations which are "corporate or otherwise." I insist that under the circumstances these associations can be formed whereby they can buy from their members, and these members can charge exorbitant rates. I want to be liberal with all these organizations, but if it be so that they can charge rates which are concededly unconscionable, my friend the Senator from Wisconsin says that under those circumstances they are amenable to this law, and my good friend the Senator from Montana says they are not.

Mr. WALSH of Montana. The Senator must not misstate the situation.

Mr. POMERENE. I do not intend to do so.

Mr. WALSH of Montana. It does not make any difference, so far as the rule of construction is concerned, whether it is a corporate organization or whether it is an association authorized by the statute, an association not corporate in its character. Such a statutory organization, whatever it may be, has only such powers as the statute expressly or impliedly gives to it, and no others. So the rule would be just exactly the same. But if the Senator is correct—and I submit that he is in error—that the association may buy the products of its members, and may give exorbitant prices to its members for the products, it will be obliged, then, to charge the consumer exorbitant prices, and that, of course, is the case the Senator is contemplating.

Of course, the association becomes amenable, then, to the jurisdiction of the Federal Trade Commission, and when it is charged with having exacted exorbitant prices of consumers, it will be no answer for the corporation to say, "We were obliged to pay these exorbitant prices because our members exacted them of us." That would be a foolish answer to make.

So far as the consumer is concerned, it is a matter of no consequence to him whether the corporation can or can not buy the products of its members. Nor would the operation of the act be in the slightest degree different. If the Senator contemplates the case of members selling their products to the association, then the case is amply taken care of by the bill as it stands now, because the association would be subject to the order of the Federal Trade Commission, and in that way the members, of course, would be reached, and they would be obliged to abate their prices to the corporation.

Mr. POMERENE. If that is true, then would the Senator object to an amendment making this applicable to the members as well as the association?

Mr. WALSH of Montana. I would, Mr. President, simply because of the reason I gave, that it would then make the members of the associations amenable when rivals of the members, not members of the association at all, would not be amenable, and the law would not be fair in its operation. If you speak about members dealing outside of the association, you should make it applicable to everybody outside of the association.

Mr. KING. Mr. President, may I suggest to the Senator, it having, of course, escaped his very acute mind, that men outside of the association, if they conspired to restrain trade, if I can recall the language of the Sherman law, or entered into a conspiracy to monopolize any part of interstate commerce, would be amenable under the Sherman antitrust law, and could be prosecuted criminally under that act?

Mr. WALSH of Montana. Exactly; and so if, outside of this association, they entered into a combination, the fact that they were members of this association would give them no immunity whatever.

Mr. KING. That was the question I desired to ask the Senator, whether he thought that immunity would be granted to members of the organization if they should enter into conspiracies outside of the organization or association which they organize?

Mr. WALSH of Montana. I can not think so for a moment.

Mr. KING. I do not dissent from that view, but I wanted the Senator's exposition of that matter.

Mr. WALSH of Montana. That is to say, they would be amenable to all the laws to which other people outside of the association would be amenable.

Now, I want to submit a few general observations on the bill, and they will be brief. I make no apology whatever for the position I take that the Congress of the United States may, without the slightest reproach, pass legislation of this character. Much has been said in a scornful way about this being class legislation. I have heard the same with reference to legislation which exempted organizations of laboring men, wage workers, from the effect of the Sherman antitrust law act.

Mr. President, I insist there is an essential difference between great combinations of capital, often referred to as trusts, whose exactions gave rise to the sentiment which produced the Sherman antitrust act, great aggregations of capital and associations of individuals, not of money but of men, for the purpose of securing higher wages or better conditions of working, and associations of farmers for the purpose of marketing their individual products.

These are so essentially different, Mr. President, that they may very properly be dealt with, and any evils growing out of them may very properly be dealt with, on an entirely different basis and by entirely different legislation. In fact, Mr. President, I think that it is undisputed history that the Sherman Antitrust Act never was, in its original inception, contemplated as a means of interfering either with associations of workingmen for the purpose of securing better wages or better working conditions, or associations of farmers for the purpose of marketing their prducts cooperatively, and I say that if there are evils in associations of farmers looking to cooperation in the marketing of their products, or of wage earners for the purpose of improving their condition, those evils are to be dealt with in some other way and by some other law than that law which was intended to curb the exactions of great monopolistic combinations of capital.

No one who has the history of the Sherman Act in mind will be able to recall the particular evils from which this country was suffering in the eighties by reason of combinations of farmers, and I say it never was intended to apply to associations of that character, and the sense of the people from that time down to this has been in accord with that idea, because until within the last six months, so far as my acquaintance with the subject is concerned, no man has ever attempted to prosecute associations of farmers for cooperative marketing under the provisions of the Sherman Antitrust Act, which has now been in force for 30 years, because even if they are within the letter of the Sherman antitrust law it was recognized upon all hands that that law never was intended to reach to associations of that character, and for abundant reasons I undertake to say that it is next to impossible, if it is possible at all, for the farmers of this country to organize an association which would be monopolistic in character or which would be able to exact exorbitant prices for their products.

Mr. KING. Mr. President, I dislike to interrupt the Senator, but my recollection is a little different from the statement made by the Senator, that it was not intended when the Sherman antitrust law was passed that it should be applicable to labor unions and, possibly, to agricultural interests. I am not clear yet what the intention of Congress was, but the Senator, if he will pardon me, will recall that during the discussion the question was raised as to whether the act did apply to labor organizations and to agricultural organizations, and Senator Sherman offered this proviso. May I trespass on the Senator's time?

Mr. WALSH of Montana. I am glad the Senator called attention to it. I was going to elaborate the subject myself.

Mr. KING. The proviso was as follows:

> *Provided*, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers, made with a view of lessening the number of hours of their labor or of increasing their wages, nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture made with a view of enhancing the price of their own agricultural or horticultural products.

This amendment was offered later by Senator Aldrich, and on March 27 of that year, 1890, the bill was recommitted to the Judiciary Committee, and later it was reported out with a multitude of changes. The exemption clause which had been attached to the bill by amendment before the recommittal to the committee was eliminated from the measure, and that action was confirmed by the Senate and, of course, by Congress, and the bill emerged in the form of the present act.

The Supreme Court of the United States, as the Senator will remember, in the Loewe against Lawlor case, used this language:

> The act made no distinction between classes. It provided that "every" contract, combination, or conspiracy in restraint of trade was illegal. The records of Congress show that several efforts were made to exempt, by legislation, organizations of farmers and laborers from the operation of the act, and that all these efforts failed, so that the act remained as we have it before us.

Mr. WALSH of Montana. I recall that history very well, and the Senator will find, if he follows it up, that it was withdrawn upon the very solemn suggestion of an eminent Member of the Senate to the effect that it was entirely unnecessary because the act could not by any reasonable construction be made to apply to those classes. That is why it was withdrawn.

Mr. POMERENE. I may say to the Senator that I went into that pretty thoroughly myself at one time, and while statements of that kind were made, it was afterwards recommitted and was entirely redrafted, so that it was general in its application.

Mr. WALSH of Montana. Exactly. That is exactly the situation. Those who were urging the exceptions to the original act were induced to withdraw their insistence upon the suggestion of the friends of the act that it could not possibly be given a construction so as to embrace them. It is a fact that the Supreme Court afterwards held, so far as labor organizations were concerned, that it did include them. I still insist that it never was the spirit of the act, but the matter came about in just that way.

There is just another word I desire to say in connection with this. The Supreme Court has held that the Sherman Act does not extend to every combination in restraint of trade, but only to those which unduly restrain trade. Accordingly it becomes a question for the court in every particular instance to determine whether or not a particular combination does or does not restrain trade. It has been held almost universally, and has been accepted, that under that definition these ordinary farmers' cooperative marketing associations do not come under the Sherman Act, because if they restrain trade at all they do not unduly restrain trade.

So we are not really amending the Sherman Act so as to give liberty of action to associations which would otherwise fall under this condemnation. We are simply making a legislative declaration that combinations of farmers of this character are not combinations which unduly restrain trade; but if they do in any manner unduly restrain trade, we have provided a remedy in the bill so that the restraint shall not go beyond the limits.

That is the purpose of the act. It is not even a concession that the associations do now fall under the provisions of the Sherman Act, but it merely removes whatever doubt there may be with respect to that particular matter.

Take the organization generally known as the Equity, which does a very excellent work all through the Northwest and furnishes an association through which farmers may market their own products. Of course they are subject to many restrictions and many embarrassments and much competition from the old organizations, which at one time had a monopoly of the business. The farmers throw their products all together, market them together, and divide the avails. Now, in a certain sense those individual farmers, by the association, have restricted competition. They do not compete with each other individually, and yet the price of wheat, as a whole, is probably not and undoubtedly not seriously affected by these associations, thus preventing competition among individual members. I apprehend that the court would hold that that is not a combination in undue restraint of trade; and yet it does, as a matter of fact, restrain trade to some extent; at least it restrains competition. It simply effects, and this is in the nature of a legislative declaration that in the opinion of the Congress—and that becomes the fixed law—combinations of this character are not in undue restraint of trade.

As I said, nothing was urged at the time the Sherman law was originally under consideration by Congress concerning the evils from which the country was suffering by reason of these organizations, nor has anyone even in this debate undertaken to put a supposititious case of injury to the public interest by the permission of the existence of organizations of this character.

Indeed, everyone concedes that so far as they have yet gone in this country their operation has been wholly beneficial. Take the great California Fruit Growers' Association. It furnishes to the country a constant supply of the citrus fruits that it markets. The raisin growers organized an association whose operations were under consideration by the Federal Trade Commission, which reported that whether it was a combination coming under the Sherman Act or not, no harm had been done to the public, up to the time the investigation occurred at least, by reason of its operations.

Take the fruit-growing industry in the Northwest. The Bitter Root Valley in my State was extensively advertised some years ago as a great place for the growing of apples, and that they produced a high quality of fruit and in great abundance. Nothing was said, I undertake to say, or little was said in those advertisements that was not true. That valley is remarkable in its capacity for the production of fruit of a high character of that nature, and yet the business has gone to pieces.

Farms are deserted, the orchards are no longer productive to any great extent, and simply because there was no system of marketing the product. An abundant food supply of that character could be furnished the public, of which it is now entirely deprived. Evils of much the same character beset the fruit grower in the State of Washington. The rich Yakima Valley is by no means as productive as it might be if there were a possibility of the growers getting together and marketing their supplies in common. One can very readily understand that an individual can not inform himself concerning the conditions of the market throughout the country as can a great association and combination of growers.

I submit, Mr. President, that far from any evils resulting to the public by reason of the organization of associations of this character they will contribute very largely to an increased food supply for the people of the country.

Mr. KING. Mr. President, before the Senator resumes his seat may I interrogate him for my own information?

Mr. WALSH of Montana. Certainly.

Mr. KING. Does the Senator think the bill would exempt from prosecution under the Sherman law any individuals or any association organized under the bill which created a monopoly or developed a monopoly in any of the products referred to in the bill?

Mr. WALSH of Montana. That is very carefully taken care of by the amendment offered by the Senate committee, reading as follows:

> Nothing herein contained shall be deemed to authorize the creation of or attempt to create a monopoly or to exempt any association organized hereunder from any proceedings instituted under the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, on account of unfair methods of competition in commerce.

If any one of these organizations should resort to any monopolistic practices or attempt to drive any rival out of business or resort to corruption in the case of purchasing agents or anything of that kind, they would all be subject to the operation of the Federal Trade Commission act.

Mr. KING. Would they be subject to the operations of the Sherman law?

Mr. WALSH of Montana. Undoubtedly; it so provides.

Mr. KING. If they should seek to create a monopoly?

Mr .WALSH of Montana. Yes.

Mr. KING. Does the Senator think that the language which he has just read is not repealed, or at least a cloud be cast upon its applicability to acts which constitute monopolies, by the words found on page 1 of the bill, in lines 10 and 11, the words being—

> and make the necessary contracts and agreements to effect that purpose, any law to the contrary notwithstanding.

Would not those words seem to imply that any sort of contract or agreement might be entered into by these associations or organizations, even though the effect of such agreement or organization was to create a monopoly which might be denounced by the Sherman antitrust law?

Mr. WALSH of Montana. I should say not, upon two plain rules of construction. One is that if there is any inconsistency between two provisions of the act, the later one prevails.

Mr. KING. I had that in mind as probably a reconciliation.

Mr. WALSH of Montana. So if that is the case, the other would wipe it out. The second is that a specific provision outweighs a general provision. We have a general provision of the act, first, that "any law to the contrary notwithstanding," and then we have a specific provision that the Sherman law and the Clayton law shall remain in operation so far as indicated in that section. So I do not believe there is any danger of a monopoly. As a practical proposition, there is not any, and if there were, as a practical proposition, it is taken care of by the concluding portion of the act.

Mr. SMITH of South Carolina. Mr. President, the debate has revolved around a legal aspect of the case as to whether or not it will come under the provisions of the Sherman antitrust law. Of course, in our legislation we pay attention to this sort of thing, but there is not on record in all the history of agriculture in the country a case where an association, combination, or organization of farmers in our great staple products, such as are common to a vast area, has ever been accomplished that has had an appreciable effect upon the price of their commodity in its general market aspect.

It is true that some local organizations have taken a part of a great crop, and by eliminating the middlemen and certain local and incidental expenses have gotten a better profit to themselves under a given price than they would have gotten otherwise; the net to them was greater, but they have not increased the market price.

If time permitted this afternoon, I think I could demonstrate that it is an impossibility, involving both the physical and moral aspect, to organize the farmers of America in the sense that the law had in contemplation when we passed the Sherman antitrust law. I wish to suggest some of the difficulties.

In the first place, you have men engaged in the production of wheat and of cotton whose financial resources are as varied as the season, whose capacity is as varied as they possibly can be. Not only that but the product of the farm is subject not to the control of the producer, but is subject to the greatest extent to the season. Take the artificial producer, the manufacturer, to curb whom that law was primarily passed, or its intent was to curb him—combinations of capital in artificial production. Every manufacturer can produce to an inch, yard, or pound his crop. He can control his season, because it is an artificial season. He can produce to the foot in lumber, to the yard in textile, to the pound in steel. Not only that, but he can control the quality of his crop. He can produce according to the order of his science whatever he desires to be produced, according to the character of the work in which he is engaged.

If the manufacturer, the artificial producer, finds that he, in conjunction with those who are engaged in like business with himself, is producing too much for the market, he can almost instantly agree to arrest production and fix the output to suit the demand. Not only that, but, being a few in number and the aggregate of their output being as great as the commerce of the world, it is easy for manufacturers to get together, to parcel out the commercial regions to themselves, to agree upon a price, and to furnish their product according to their own will by regulating the amount of manufactures which they put out. So, to repeat what I have already said, they can control the quality and quantity of their output and its price.

Now, as to the natural producer, the farmer, not only has he no capital invested in brick and in mortar, in stock sold, but the principal capital the American farmer has invested is the land of this country and his own muscle and credit from somebody else. The major portion of his expenses are incurred in buying material that is essential to produce the crop. He has but one turnover in 12 months as against the artificial manufacturing producer, who has a commercial asset at the end of every 24 hours to meet the liabilities incurred by him in production. The farmer or the natural producer incurs his expenses when he plants his crop, when he puts his seed into the ground. He then must take the chances of nature as to the quality and quantity of the thing which he produces.

Not only that, but the larger percentage of the farmers are in debt for the production of their crops, and yet have no control over them so far as the time and place of marketing is concerned. The man the farmer is owing demands that he meet the obligation incurred in production. The result is that the great fundamental industry of this country, upon which everything else rests, is carried on by those who by the very nature of the case can not organize, and therefore are the victims of those who are organized and who are in a position to demand their profit.

I have a communication here which has just been issued by the Department of Agriculture which shows a startling condition of affairs. The Secretary of Agriculture himself says that no other business in the world could stand such a shrinkage in value as that which now exists as to agricultural products. The difference between the crop produced in 1920 and the crop

produced in 1919 as to quantity was largely in favor of the 1920 crop; perhaps it is 33⅓ per cent on the average for all production in this country, in favor of the crops of 1920 over that of 1919. The great shrinkage in value is in excess of $5,000,000,000; and adding the increased volume of production, the cost incurred, and the shrinkage in price it will approximate 35 per cent net loss to the farmers of this country in the aggregate amount received for the two crops, representing $5,000,000,000 of loss.

I have heard it said about the farmer on this floor during the debate that he must take his loss along with other people. That would be a fair view to take of the matter if the farmer had the same facilities for recouping the losses which he sustains as have other people. Let me call attention to a fact, not a theory. Last year cotton sold in my State—and I am going to refer to other staple products that are in the same condition—at the mills around 40 cents a pound. Cloth was manufactured from that cotton and sold to the world at large, and the mills of New England and the South made an average profit of 300 per cent, most of them declaring stock dividends, and thereby, through the decision of the court, getting rid of paying excess-profits taxes. Now mark. Let us take the mathematical and logical condition that exists. Certain mills in New England and the South have announced that they have cut the price of cloth—and I want Senators to pay particular attention to this—33⅓ per cent. The raw material out of which they had made that cloth has gone down 200 per cent. Now, if they were making 300 per cent out of 40-cent cotton and they cut their prices 33⅓ per cent and cotton goes down 200 per cent, they are making a larger percentage of profit out of the low-priced cotton, in spite of the fact that they have cut their prices 33⅓ per cent, than they did out of the 40-cent cotton.

Who has the farmer beneath him to enable him to recoup himself by charging his loss off in the next sale that he makes or in the purchase of his next raw material? It is small encouragement to the farmer of this country, knowing his condition, as he does know it, to be met with opposition whenever an effort is made here to encourage him in his disorganized condition, as he will be disorganized as long as farming is subject to the caprices of nature and to the different financial conditions in which the farmers find themselves. It is small encouragement to intelligent boys of the country to go back to the farm and be the hewers of wood and the drawers of water at the mercy of organized capital the world over, with not even the Government taking a stand and recognizing that the farmer is in a class by himself, and one upon which the whole superstructure of our civilization rests.

Senators stand here and argue whether farmers' organizations of this country should come under the Sherman antitrust law, and consume time drawing nice legal distinctions; but in all the history of agriculture in this country and elsewhere no case is on record where the farmers have ever been able to combine and get justice, much less to perpetrate injustice.

It is said that everything else in this country has sunk pari passu with farm products. That is not true. Everything moves along the line of least resistance, and that means that the poor devil on the farm, having no capital resources, having no friends save himself and those dependent upon him, when the financial crisis comes, his paper in the bank, being the weakest, is the first shaken out. So wheat and other grain, cattle, and wool and cotton were the first to feel the effect of the unfortunate cataclysm which unfortunately was brought about in part by those who should have been attempting to stem the tide rather than to precipitate the avalanche.

Now, here comes a measure for the purpose of showing the attitude or, as the Senator from Montana has said, of expressing the opinion of Congress that the farmer should not come under the restrictions of the Sherman antitrust law. I am not a lawyer, and sometimes I thank God I am not.

Mr. THOMAS. So do the lawyers, perhaps.

Mr. SMITH of South Carolina. Yes; some of them may, because they would not feel easy in honest company. But I want to state that it would be, it seems to me, a fine piece of statesmanship and patriotism if we could devise some means in this room—for means have not been found outside of it—by which the farmers could organize and at least put themselves in a position where they could protect themselves against just such conditions as now exist.

The party on the other side has committed itself to a high protective tariff—to do what? In platform after platform they have declared that industries which were not able to stand the competition and inroads of older and more highly organized ones abroad were entitled to the protection of the American Government to enable them to make a profit until they could get on their feet and fight for themselves. Have the farmers a less right to ask that the Government shall provide means by which they may be protected against the inroads of capital and organizations that ruin them?

I think it is to the credit and honor of this body that we are saying to the farmers of the country that we recognize the fact that as the producers of that out of which all the others must live, it being impossible for them to come under the terms of the Sherman antitrust law in fact, we will make it legal for them to be immune from the operation of the law.

I have sat here and listened until I have almost lost hope that Senators will study the actual conditions. They come in here with fine-spun theories, indulge in broad and general statements, and say "let the farmer take his medicine along with other men during the readjustment period following the war." During the war how many millionaires were added to our great millionaire population and from what classes did they come? Who knows of a single farmer who has become a millionaire because of the conditions brought about by the war? Although they number about 33⅓ per cent of the entire population of the United States, not one farmer became a millionaire; and now from the very peak of what seemed to be reasonable prices for that which they had to sell they are hurled into the very abysmal pit of ruin and disaster. Yet they are quietly told by men sitting in the United States Senate, "take your medicine."

Mr. President, the conditions in this country are frightful beyond expression. Although the farmers have been hurled from the very peak of prosperous prices within a period of six months to prices far below those antedating the war, yet we see men stand here and say "this is inevitable; the same condition has followed every war, and it will follow every future war." There was not a gun fired in America at an enemy; not a single piece of property on the American continent was destroyed by the enemy; not a business nor a vocation nor an avocation was invaded by the presence of a foreign foe; but, on the contrary, all of our resources were left untouched and were even developed, perhaps, and quickened by the influx of the lifeblood of commerce, namely, an abundance of money, and we have now after the war a condition in which there is a greater cry than during the war for production. During the war we were asked to produce to kill; after war we were asked to produce to make alive.

Then we held up every man and forced him with the threat of being branded as a slacker to buy Liberty bonds and to engage in the prosecution of the war; now, when we have triumphed, under the providence of God and the bravery and valor of our troops and because of the boundless resources of our country, with thousands in Europe and elsewhere in the world shivering in the cold and starving, we say, "Let them take their medicine, both the American people who helped win the war and those whom we helped to conquer."

We could find plenty of resources to whip the enemy, but we can find no resources to make alive a prostrate world, and the reason is not far to seek. Then it was a threat of political and of commercial death to all from a foreign enemy. Now it means the opportunity of these grafters who take advantage of the situation and put into their pockets the spoils that come from the wreck of business.

It is just as much our duty now, in the disorganized state of world society, to hold our hands on the financial and commercial throttle and see that justice is done and the condition met as it was when the sinister shadow of the Hun fell athwart the hope of the world; and here we are haggling about the Sherman antitrust law, breaking the heart of the farmer, sending millions to bankruptcy and ruin, taking our own American children out of the schools, taking the pictures from the walls and the carpets from the floors, and blighting the hopes of thousands of American homes, because we say it is not according to our policy to interfere in such matters.

This bill was not introduced during the time of peak prices. It was introduced because of the equity and justice that underlie the impulse that caused it, that is as eternal as the hills, that recognizes that the farmer is in a class to himself, subject in his production to the law of nature, while the manufacturer is subject to the law that he himself creates; he can open the throttle and turn the wheels or shut them down as he pleases; but the farmer, when he puts the seed in the ground, must wait upon the wheel of the seasons and the movings of the gods.

Mr. President, I have gotten tired to death of this eternal carping about the farmer being subject to the operation of law, to the very same processes that others are. In the great staple products, such as wheat and other grains, wool, and cotton, when did you ever know him to fix his own price and get it? Whom does he wait upon? A set of speculators that sit in the exchange places of this country, most of whom do not know a

wheat straw from a cane reed, or a cotton stalk from a Jimsonweed. They sit down and take the produce of the farmers as the dice in a box, and gamble at their sweet will upon the hopes of 35,000,000 Americans. That is all right; that is your law of supply and demand, that fluctuates as much as 33⅓ per cent of the average value of a crop in a day; and yet you coolly mock the farmer by saying "Take your medicine," the portion poured out by a gambling and scheming world, sacrificing him to meet their selfish greed.

I hope that every Member of this body will read the report of the Secretary of Agriculture. It is a sane, fair warning. Thank God, the world is making progress along educational lines. We talk about the high cost of living. I say here in the Senate Chamber this afternoon that the time has passed forever when the farmers of this country will live in bare huts and bear the burdens of the civilization of this country, produce its wealth, and yet not share in the wealth they produce. Universal education has raised the vision of all men to a higher point and it has poisoned all meaner choice. The comforts and conveniences of modern life and the luxuries that the genius of man has made possible in a cheap and popular form they are going to have, and have a right to have. If we are wise, we will make the law such that they can have them according to good, democratic law; but they are going to have them. It is not a question of the high cost of living; thank God, it is a question of the cost of higher and better living. Every man in this Chamber should devote himself to bringing about that condition; and yet we stand here, not to attempt to solve the great problem that stares us in the face but to quibble over some technical relation of a proposed law to another law that has been passed!

This is not socialism, but a right to demand at the hands of the Government certain things that the Government itself took over. In 1914 we took over and made a Government function the banking of this country. We placed in the hands of seven men the fate of America. They can lend to whom they please, extend credit to whom they please, withhold it from whom they please, under the terms of the law. And what are we confronted with now in this good year 1920, when in the spring every farmer was asked to produce, produce to feed the starving millions of the earth that were taken out of production by the exigencies of war? What are we confronted with now? We responded, borrowed money at the peak of prices, and planted the seed that has resulted in the largest crop we have had since the war began; and now we are asked to take $5,000,000,000 less for a bigger crop than any one we made during the war!

It is said that the law of supply and demand is operating. I want to make one suggestion. I want to ask a question of this body of men who talk about inflated currency. They say that the producer was demanding $5 for one unit of goods, and therefore that he was asking an exorbitant price. What in the name of reason and common sense is the difference between a man that asks $5 for one unit of goods and a man who asks five units of goods for $1? There is just as much profiteering to-day in cash as there was in commodities six months ago. If I increase the purchasing power of my dollar to a point where $1 will buy five times as much as it did before, I am profiteering in dollars just as the other fellow had profiteered in commodities. You hear no cry against that; no; but when sheep were bringing $8 or $10 or $12 a head the sheep grower was a profiteer, and now, when the man who has the money can buy twelve or fourteen times that many sheep for that many dollars, he is not a profiteer but a patriot!

What is the difference? If I, in all good faith, went to work and spent the money necessary to produce this crop, and bought the materials to produce it at the peak of prices, and then, when the 12 months is over and I come to sell it, I have to sell it at a fifth or a sixth of what it cost me, somebody is profiteering, because the man who is purchasing is getting five times as much for his dollars as I got for my dollars when I bought; yet there is not a word of criticism about the profiteer in dollars.

Mr. President, without regard to the aspect of this bill as to whether it comes within the Sherman antitrust law or whether it does not, let us pass it by all possible means in the encouragement of the agricultural interests of this country, in order that there may be an abundance for the American people and for export into the world at large, with a fair and just profit to those who produce it.

Mr. McKELLAR. Mr. President, I am in favor of the pending bill and expect to vote for it. I am not going to discuss it. I merely want to refer to a statement made by the Senator from Michigan [Mr. TOWNSEND] this morning about one of the objects of the bill being to secure the means to hold cotton for higher prices.

Inadvertently the Senator is mistaken about the situation which exists in regard to the holding of cotton, in my section of the country at all events. A few weeks ago, about the time I left for Washington, there were on hand some 241,000 bales of last year's cotton that those who owned the cotton had not been able to sell at all for any price. It is not a question of holding for a better price; it is a question of getting a market for the cotton at any price, and for fear that the statement of the Senator might lead to an erroneous opinion about the matter, I wanted to clear it up.

Unquestionably most of the cotton farmers in the South would have been delighted to sell their cotton and had no desire to hold it for better prices. But they could not sell it at all. There was an absolute lack of demand for the cotton, and of course the reason that this legislation is desired is to furnish a market for cotton.

I also want to call the attention of the Senate to another proposition about the question we are now discussing. It is contained in a telegram from Memphis, my home town. It is addressed to me here, and says:

> Railroads propose early date another heavy increase rates on grain. Present rates excessively inflated. Can you arrange conference with Senate Committees on Interstate Commerce and Agriculture?
>
> L. P. COOK,
> *President Memphis Merchants' Exchange.*

Of course, every additional burden placed upon grain will interfere with what it is purposed to do by these bills. I merely read this telegram for the information of the Senate.

Mr. TOWNSEND. Mr. President, lest I should be misunderstood from what I stated this morning, as it has been interpreted by others who have followed me, I desire to ask the indulgence of the Senate for just a moment, because I am as anxious as anyone can be to get this matter out of the way.

My criticism this morning was directed to some of the arguments that had been presented to the Senate during the last week or 10 days—the reasons which were given by some Senators for permitting what they termed a change in the Sherman antitrust law. I said, among other things, that it had been stated on the floor by some Senators that it was the province of the Government to enable the farmers, the growers of cotton being mentioned particularly, and I suppose it would apply to other agriculturists in the same way, to hold their products until they could get what they believed was the proper price for it. I know one or two Senators stated that, and that the advice would be given to their constituents that no more cotton should be raised, if that was the only way they could secure the price which they thought was right.

Mr. President, I have listened with a good deal of interest to the arguments which have been made upon this bill, and I am convinced that my first impressions about it are right. I do not think it is a provision which violates the real intent and purpose of the Sherman antitrust law. I agree with the Senator from Montana, especially under the decisions of the Supreme Court, that only undue restraint of trade was prohibited, and that any act which is passed by Congress which clarifies that purpose, and thus prevents the numerous indictments and threatened suits, is most desirable.

I realize, as every man who represents an agricultural constituency realizes, and especially as every man must realize who has lived practically his whole life upon the farm, that there are handicaps to the farmer which are not experienced by other business men. It is impossible for him to have the understanding, even the simple understanding which business requires, looking to farming and marketing under the most favorable and desirable circumstances, unless he can cooperate with other farmers.

It is possible that this act does repeal the Sherman antitrust law in certain particulars, but I do not believe that is a necessary conclusion. I think it makes clear, I repeat, the decision of the Supreme Court as to undue restriction of trade. I know from my own experience that there should be a better understanding among the farmers. They should not, and they do not, ask Congress to pass laws which would give them improper advantages, such advantages as are condemned by the Sherman antitrust law.

I have known for many years, as I think all of us have known, that there are good and bad trusts or combinations. It has been very difficult to pass a general law which would discriminate between the good and the bad, and I have always opposed ever since I have been in Congress any general law or rule in the nature of law laid down by Congress which works to the disadvantage of a portion of the people of the United States.

Most of the special privileges which have been granted and which are asked for have resulted and will result in detriment to the beneficiaries whom it is sought to help, because our Government, if it is to endure, must deal justly and fairly with all of its citizens, and because a man happens to represent an agricultural constituency or a laboring constituency or a manufacturing constituency he has no right, in my judgment, to ask for a law which would be detrimental to the other reputable classes of the people.

I do not think this proposed law is detrimental to the general welfare, although I have at times been confused, as I have said, while listening to the arguments pro and con of men carried away with their zeal for their political standing in their States and communities, who have, it seems to me, gone far wide of the real purpose of this legislation.

Farmers I know anything about, those who have organized, are only asking for such rights as are absolutely essential to the successful performance of their profession. Without the right to determine the best market, without the right to cooperate in production and disposition of products, the farm will continue to be a very unprofitable, unsuccessful place where men and women can work.

Evidently there must be a middle ground. There must be a place where you can not apply the original doctrine of no combinations. But when we have that definition restricted, and the general good protected, as is the case in this bill, we are not only aiding the farmers, giving them what actually belongs to them, but we are aiding all of the people of the United States, because our hope as a nation and the hope of the world rests upon successful agriculture.

Of course, I want again to protest against the false doctrines which have been uttered here many times during this discussion, asking for improper things and claiming that this measure probably grants things which would be detrimental to all of the people of the United States. Of course, it is unnecessary, probably, for me to make this statement, but inasmuch as I was not able to complete the interrogatory which I submitted to the Senator from Minnesota [Mr. KELLOGG] I felt that it was important that I should make this statement.

Mr. NELSON. Mr. President, I ask that the amendments of the Committee on the Judiciary may now be acted upon.

The VICE PRESIDENT. The Secretary will state the committee amendments in their order.

The ASSISTANT SECRETARY. On page 2, line 9, strike out the words "Secretary of Agriculture" and insert in lieu thereof the words "Federal Trade Commission"; on line 13, after the word "thereof," strike out "he" and insert in lieu thereof the words "the commission"; on line 14, after the word "stating," strike out the word "is" and insert "its"; on line 25, strike out the words "Secretary of Agriculture" and insert the words "Federal Trade Commission"; and on page 3, line 8, strike out the words "Secretary of Agriculture" and insert the words "Federal Trade Commission," so as to make the first paragraph of section 2 read:

That if the Federal Trade Commission shall have reason to believe that any such association restrains trade or lessens competition to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, the commission shall serve upon such association a complaint stating its charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than 30 days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from so restraining trade or lessening competition in such article. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be reduced to writing and made a part of the record therein. If upon such hearing the Federal Trade Commission shall be of the opinion that such association restrains trade or lessens competition to such an extent that the price of any agricultural product is, or is about to become, unduly enhanced thereby, it shall issue and cause to be served upon the association an order reciting the facts found by it, directing such association to cease and desist therefrom. If such association fails or neglects for 30 days to obey such order, the Federal Trade Commission shall file in the district court in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to affirm, set aside, or modify said order, and may make rules as to pleadings and proceedings to be had in considering such order.

The amendment was agreed to.

The next amendment of the Committee on the Judiciary was, on page 3, line 18, to strike out the words "Secretary of Agriculture" and to insert in lieu thereof the words "Federal Trade Commission"; and on page 4, line 7, after the word "thereof," to strike out the proviso in the following words: "*Provided*, That nothing contained in this section shall apply to the organizations, or individual members thereof, described in section 6 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, known as the Clayton Act," so as to make the second paragraph of section 2 read:

The facts found by the Federal Trade Commission and recited as set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review the district court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may upon conclusion of its hearing enforce such order by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, and such service shall be binding upon such association, the officers, and members thereof.

The amendment was agreed to.

The next amendment was to insert as a separate paragraph at the end of section 2:

Nothing herein contained shall be deemed to authorize the creation of, or attempt to create, a monopoly, or to exempt any association organized hereunder from any proceedings instituted under the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, on account of unfair methods of competition in commerce.

The amendment was agreed to.

The VICE PRESIDENT. This completes the amendments of the committee. The bill is as in Committee of the Whole and open to further amendment.

Mr. SMITH of Georgia. Mr. President, I wish to call attention to the fact that section 2 leaves to the Federal Trade Commission the power to fix the place at which a hearing on any complaint against one of these associations or corporations should be held. I think it quite important that the hearing should be held in the county where such association or corporation has its principal office, and I desire to suggest that we add, on page 2, in line 20, after the word "article," the following words:

And the place named for the hearing shall be the county of the principal office of such association or corporation.

Mr. NELSON. I think that is a good amendment and should be adopted.

The VICE PRESIDENT. The Secretary will report the amendment.

The ASSISTANT SECRETARY. On page 2, line 20, after the word "article," insert the following words:

And the place named for the hearing shall be the county of the principal office of such association or corporation.

Mr. WALSH of Montana. I suggest to the Senator from Georgia that he place the word "within" after the words "shall be."

Mr. SMITH of Georgia. That is better. It will then read, "shall be within the county of the principal office," and so forth.

Mr. KING. May I suggest to the Senator from Georgia that I can conceive of cases where the operations of the organization might be in some county outside of the one within which it was organized, and the interests of the public, as well as the interests of the persons being investigated, might best be served——

Mr. SMITH of Georgia. The principal office would necessarily be the place from which it conducted its principal business.

Mr. KING. Suppose the charge is that a certain corporation has unduly restrained trade, or has improperly prohibited competition, and that its activities in which it has offended the statute have been in some other county than that in which the headquarters of the organization are located. Does the Senator think that, notwithstanding that fact, the hearing should be in the county where is the principal office of the corporation?

Mr. SMITH of Georgia. The general rule is that a corporation is proceeded against at its principal office, and I think it hardly possible to conceive that one of these associations could have its principal activities outside of the county of its existence. I really believe that this plan for jurisdiction is best.

Mr. KING. I can conceive of many corporations which might be formed under the bill whose sales and the marketing of and the processing of whose products might be outside of the State, even, in which the corporation is formed. I do not think the Federal Trade Commission has abused the authority which it now has in conducting such hearings, and to compel it to institute its investigation in a given county might be unwise and might be prejudicial to the interests of the Government.

I express no opinion, because the matter has not occurred to me before; but it seemed to me we could well afford, if the bill is to pass, to leave the Federal Trade Commission unlimited authority to conduct the examination where the interests of the public would best be served.

Mr. SMITH of Georgia. I would be willing to modify the amendment to the extent of saying "the Federal judicial district." I think that would certainly broaden it sufficiently, if that modification would be acceptable to the Senator.

Mr. KING. I make no objection to the amendment offered by the Senator from Georgia, but it seems to me that there may be cases in which, if the amendment shall obtain, the investigation would cost a very much greater sum than otherwise.

Mr. SMITH of Georgia. I would like to ask the Senator from Minnesota [Mr. NELSON] if he thinks it would be sufficient to say "within the Federal judicial district"?

Mr. NELSON. That would be satisfactory.

Mr. SMITH of Georgia. Then I will change the amendment so as to read "Federal judicial district."

Mr. NELSON. It would allow the hearing to be held within the Federal judicial district where the parties or the headquarters of the association were located, instead of dragging them all here to Washington before the Trade Commission. I think it is a good amendment modified in that way.

The VICE PRESIDENT. The amendment as modified will be stated.

The ASSISTANT SECRETARY. On page 2, line 20, after the word "article," insert a comma and the words:

and the place named for the hearing shall be within the Federal judicial district in which the principal office of such association or corporation is located.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. NELSON. I move that the Senate request a conference with the House on the bill and amendments, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. NELSON, Mr. DILLINGHAM, and Mr. OVERMAN conferees on the part of the Senate.

PROTECTION OF MATERNITY AND INFANCY.

Mr. FRANCE. Mr. President, I move that the Senate proceed to the consideration of the bill (S. 3259) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States.

Mr. SMITH of South Carolina. Mr. President, I do not know that it will have any parliamentary effect, but I gave notice on yesterday that immediately upon the completion of the pending legislation I would ask for the present consideration of the bill (S. 3390) to provide further for the national defense; to establish a self-sustaining Federal agency for the manufacture, production, and development of the products of atmospheric nitrogen for military, experimental, and other purposes; to provide research laboratories and experimental plants for the development of fixed-nitrogen production, and for other purposes.

As I stated, I gave notice that I would call up this bill, and I hope the Senator from Maryland [Mr. FRANCE] will allow it to be taken up at this time. I do not think it will take very much time to dispose of it.

Mr. SMOOT. It can not be passed to-night, I will say to the Senator.

Mr. SMITH of South Carolina. No; but we could make it the unfinished business, so that it could be discussed.

Mr. SMOOT. I have not any objection to that at all.

Mr. SMITH of South Carolina. I do not ask to take it up for the purpose of trying to pass it to-night, unless everyone is of the same opinion that I am, and that does not seem to be the case.

The VICE PRESIDENT. The Chair will say that while the notice of the Senator from South Carolina was purely informal and not binding, the Chair was under a misapprehension. The Chair thought the Senator from South Carolina said "at the close of the unfinished business."

Mr. SMITH of South Carolina. I meant the bill which has just been passed.

The VICE PRESIDENT. The Chair did not understand it. The Chair having recognized the Senator from Maryland [Mr. FRANCE], and he having moved to take up the other bill, the Chair must put that motion.

Mr. SMITH of South Carolina. I think the Senator from Maryland perhaps will yield for this nitrate bill to come up with the understanding that if it develops too much opposition we may take some other action.

Mr. LENROOT. Will the Senator from South Carolina yield? Was not the Senator's notice that he would move to take up his bill following the packers bill?

Mr. SMITH of South Carolina. No; I meant when the bill which we have been discussing to-day was disposed of. That was my intent. My language may have been unfortunate. I want to be perfectly frank. I considered the bill we have just disposed of to be the unfinished business.

I think we can reach an agreement with reference to this matter. If the Senator from Maryland will withdraw his motion, I am sure that whatever is to be done in reference to this bill will be developed directly as to what disposition shall be made of it. I have no desire to retard the passage of his bill any more than he would have a desire to retard the passage of my bill.

The VICE PRESIDENT. This was the language of the Senator from South Carolina on December 14:

I wish to take this occasion to serve notice on the Senate that when the unfinished business is disposed of—

And so forth.

Mr. SMITH of South Carolina. I was thinking that the Nelson bill was the unfinished business. That was my purpose.

Mr. UNDERWOOD. Mr. President, I suggest to the Senator from South Carolina and the Senator from Maryland, as these seem to be the two bills contending for the right of way, that some of the Members on this side are very anxious to get early consideration of the nitrate bill which the Senator from South Carolina is seeking to call up, and possibly we might reach an agreement, if that bill be taken up as the unfinished business, that the Senator from South Carolina might lay it aside temporarily and allow the Senator from Maryland to proceed.

Mr. SMITH of South Carolina. I would be very glad to do that.

Mr. FRANCE. As I have made my motion, I would be glad to have that motion prevail, and then I shall be very glad to lay my bill aside temporarily and allow the Senator from South Carolina to proceed, with the understanding that if his bill promises to occupy an undue amount of time he will again yield to my measure.

Mr. SMITH of South Carolina. Just to be perfectly frank each with the other, the situation is this: I am not sure that the bill which the Senator from Maryland is seeking to have considered will pass very shortly. I do not know of any very serious opposition to it. If the nitrate bill is made the unfinished business, and it promises to have some opposition, I shall be very glad to ask to have it temporarily laid aside and allow the other bill to receive whatever consideration it is entitled to.

Mr. SMOOT. Mr. President, it is now 10 minutes past 4 and I did not expect either one of the bills to be called up to-night. I have not the papers here to go on with a discussion of either measure. I do not intend to take very much time on either of them. I have no disposition whatever to interfere with the passage of either, except to the extent of speaking briefly and giving my views. I would very much prefer, if there is going to be discussion to-night, and I am compelled to speak, to take up the maternity bill; but I think there will be no time saved at this time of day by taking up either bill. Therefore, it seems to me that if we allow the maternity bill to be made the unfinished business and then adjourn, and take up the bill to which the Senator from South Carolina refers in the morning hour to-morrow, perhaps we could finish it in those two hours.

Mr. UNDERWOOD. I will say to the Senator from Utah that the nitrate bill has practically a unanimous report of the committee so far as I know. I think it undoubtedly has the votes here, but it is likely to bring on some discussion. It could not be disposed of to-night, and the Senator would have time enough anyway; but if it is taken up, why not let one of the bills be discussed to-night?

Mr. SMOOT. It is so late now that we can not do much on either one of them, and it seems to me there would be no time gained. Let us make the maternity bill the unfinished business.

Mr. SMITH of South Carolina. It will only take a moment to do as the Senator from Alabama suggests. The Senator from Maryland [Mr. FRANCE] is perfectly willing that that course shall be taken, and I therefore move, if he will allow me, to take up the bill to which I have referred, the nitrate bill. Then I will ask that it be temporarily laid aside to allow him to go on with his bill whenever he sees fit.

Mr. FRANCE. That course is agreeable to me.

Mr. SMOOT. To make the nitrate bill the unfinished business?

Mr. SMITH of South Carolina. Yes.

Mr. SMOOT. Why not do it the other way?

Mr. GRONNA. Mr. President, I wish to suggest that we ought to be perfectly frank. I think the bill which the Senator from South Carolina has in charge is a bill which will require some time. There will be some considerable discussion on it. I hope the Senator from Maryland will not insist on his

motion at this time. I do not like to be put in the position of voting against his motion, but I would have to vote against it at this particular time, and I think others who are friendly to his measure are in the same situation. I believe the bill reported by the Senator from South Carolina should at this time be made the unfinished business and that we can save time by doing that. I sincerely hope the Senator from South Carolina will so move.

Mr. SMOOT. I do not know what time the Senator will save by doing that. I can not see it. If I were the Senator from Maryland and wanted my bill passed—and there is no particular opposition to it that I know of—I would move to make it the unfinished business. I do not think there is any disposition on the part of anyone to stop the passage of either one of the bills. Simply because the Senator from North Dakota thinks that the farmers of the country are interested in one bill, and the women of the country are interested in the other, perhaps the bill in which the farmers are interested should be first disposed of.

Mr. GRONNA. Of course the Senator from Utah knows a great deal more than does the Senator from North Dakota——

Mr. SMOOT. I never stated that.

Mr. GRONNA. Just a moment. But the Senator from Utah must not speak for the Senator from North Dakota. The Senator from North Dakota has taken considerable time to study the bill which is now being presented to the Senate. Let me say to the Senator from Utah that I know—and I state it in good faith—that the bill will require some discussion. On the other hand, the bill which is now desired to be considered by the Senator from Maryland I do not believe will consume as much time as will the other measure. For that reason I stated that we could save time by first considering the latter measure.

Mr. SMOOT. I think in all probability it will take more time to consider the bill of the Senator from Maryland than the one now pending.

Mr. SMITH of South Carolina. Mr. President, I desire to state to Senators on the other side of the Chamber that I think I am entitled to at least ordinary courtesy. Although my language was, perhaps, unfortunate when I made the statement that I would call up the nitrate bill immediately upon the conclusion of the unfinished business, I had reference, of course, to the bill that was then being discussed and not to the packers bill, for I knew that that bill would involve, perhaps, a long-drawn-out discussion. It now transpires that the day for a vote on that bill has been fixed as the 24th of January.

It is a simple matter of courtesy. If Senators think I am trying to take a short cut on anybody, I desire to say that I have never done that since I have been in the Senate, and I am not going to do so now. I gave notice in good faith that I would call the bill up. Other Senators may have misunderstood the matter. If they have, I desire to say that there is not any sinister motive on my part to try to rush this bill through and to be discourteous to the Senator from Maryland. I have had no such intention.

Mr. SMOOT. No one has accused the Senator from South Carolina of that.

Mr. SMITH of South Carolina. No; but they have intimated it and have suggested that the Senator from Maryland stand on his rights. Of course, the Senator from Maryland has his rights, and so have I mine; but there is such a thing as courtesy in these matters.

I gave notice that when the time came I should ask for the consideration of my bill. I tried to explain the matter to the Senator from Maryland. I am perfectly willing to take my chances when the time comes. That is all I ask. I gave the notice in good faith that I would ask that the bill be taken up. That is all there is to it.

Mr. LENROOT. Mr. President, will the Senator from South Carolina yield to me?

Mr. SMITH of South Carolina. I yield to the Senator.

Mr. LENROOT. Does the Senator from South Carolina take the position that any Senator can get to his feet and give notice that he is going to call up any particular bill, and that that gives him any right?

Mr. SMITH of South Carolina. No; it merely gives him the right to have the matter discussed; and if the Senate does not desire to take the bill up, it may reject the request. It has, however, been a custom of the Senate ever since I have been here for a Senator to make a motion in accordance with his notice and then for the Senate to do as it pleased in regard to the matter.

Mr. LENROOT. I have not observed that.

Mr. SMITH of South Carolina. I have observed it ever since I have been here, and I have been here some time.

Mr. SMOOT. A Senator has the right to give any notice he sees fit, if he is recognized by the Chair.

Mr. SMITH of South Carolina. As a matter of course I understand that, and so does every other Senator; but it has been the custom here that if a Senator were interested in a measure and he gave notice that he was going to make the effort to have it considered, he might have the privilege of doing so, and then if Senators desired to vote the request down, they voted it down.

Mr. TOWNSEND. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator from Michigan will state it.

Mr. TOWNSEND. What is the motion now pending before the Senate?

The VICE PRESIDENT. It is the motion of the Senator from Maryland [Mr. FRANCE] to proceed to the consideration of Senate bill 3259, which motion is debatable after 2 o'clock.

Mr. FRANCE rose.

Mr. SMOOT. If the Senator from Maryland wishes to make a statement and desires to withdraw the request, I have no objection, but the matter rests with him.

Mr. FRANCE. Mr. President, under the circumstances and out of courtesy to the Senator from South Carolina, I will withdraw the bill for which I desire consideration, with the understanding that when he obtains consent for the consideration of his bill he will ask that it may be laid aside in order that the Senate may immediately proceed to the consideration of the bill which I have in charge.

Mr. SMITH of South Carolina. That is exactly the understanding which I had with the Senator from Maryland, and, dealing with him, I now move that the Senate proceed to the consideration of Senate bill 3390.

Mr. SMOOT. Just a word. There can be no understanding that a Senator shall not make objection to the laying aside of the unfinished business.

Mr. SMITH of South Carolina. I did not make any such statement.

Mr. SMOOT. The Senator from South Carolina can not make such an agreement. I simply make that statement, not because I intend to object to laying the unfinished business aside, but merely for the RECORD.

Mr. SMITH of South Carolina. Mr. President, I must amend my statement. I never intimated any such thing as that suggested by the Senator from Utah. I said the understanding was that I would make the motion temporarily to lay my bill aside when its consideration should have been agreed to. The Senator from Utah if he desires to object, of course, will have the right to do so.

Mr. SMOOT. The Senator from Utah had no reference to the Senator from South Carolina. The Senator from Maryland stated that he would withdraw his bill with the understanding that the unfinished business should be temporarily laid aside whenever it was desired to discuss his bill. Now, such an understanding as that can not be had.

Mr. UNDERWOOD. Mr. President, will the Senator from Utah allow me to say a word?

Mr. SMOOT. I yield to the Senator.

Mr. UNDERWOOD. I do not know what disposition the Senate is going to make of the nitrate bill. This side of the Chamber wishes a vote on it ultimately at a reasonable date. Our disposition is not to interfere with the business of the majority of the Senate, and we shall not do so, if we receive reasonable treatment at their hands. If we do not, we shall use the parliamentary tactics that are available to us. We want to help the Senators on the other side of the Chamber to conduct their business.

The Senator from South Carolina [Mr. SMITH], however, the other day gave what he considered a proper notice, although he may have made a mistake in its technique. If the Senate does not desire the bill to which he refers considered, of course, it will vote the motion down. We have no disposition in the world to stand in the way of the motion of the Senator from Maryland nor to prevent his having consideration of his bill, but we do think that we are entitled to the right of way for the nitrate bill. I think the Senate had better run along in such a manner that Senators on this side of the Chamber may work in harmony with those on the other side and attend to business; we are desirous of doing so; but when a Senator on this side gives a notice—it is true that his notice does not carry anything that is legal and binding; it has no binding effect; but we do recognize the courtesy between the sides—I do not think objection should come from the other side of the Chamber, when we are attempting to help the majority in transacting their business.

Mr. SMOOT. I will say to the Senator from Alabama I have not any doubt that both the bills referred to will pass within the next 24 hours.

Mr. UNDERWOOD. Then, why not let us have the courtesy of the consideration of the measure to which we think we are entitled?

Mr. SMOOT. That rests entirely with the Senator from Maryland, so far as I am concerned.

Mr. UNDERWOOD. The Senator from Maryland is willing that that be done and has so announced.

ATMOSPHERIC NITROGEN.

Mr. SMITH of South Carolina. I move that the Senate proceed to the consideration of Senate bill 3390.

The VICE PRESIDENT. The Senator from South Carolina moves that the Senate proceed to the consideration of a bill, the title of which will be stated.

The ASSISTANT SECRETARY. A bill (S. 3390) to provide further for the national defense; to establish a self-sustaining Federal agency for the manufacture, production, and development of the products of atmospheric nitrogen for military, experimental, and other purposes; to provide research laboratories and experimental plants for the development of fixed-nitrogen production, and for other purposes.

The VICE PRESIDENT. The question is on the motion of the Senator from South Carolina to proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment.

Mr. SMITH of South Carolina. Now I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and it is so ordered.

PROTECTION OF MATERNITY AND INFANCY.

Mr. FRANCE. Mr. President, as the unfinished business has been temporarily laid aside, I move that the Senate proceed to the consideration of Order of Business 602, being Senate bill 3259, or I will ask unanimous consent to that effect.

The VICE PRESIDENT. The question is on the motion of the Senator from Maryland.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 3259) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States, which had been reported from the Committee on Public Health and National Quarantine, with an amendment.

Mr. FRANCE. Mr. President, I think we can very quickly pass this bill. I think that when the Senate has made up its mind to pass a measure debate is really useless, and vice versa; and I think that the Senate has really made up its mind to pass this measure, because it is a measure which I am sure commends itself to Senators.

Mr. SHEPPARD. Mr. President, I ask that the formal reading of the bill be dispensed with.

Mr. KING. I object.

Mr. SMOOT. Mr. President, I wish to say to the Senator from Maryland that I have an amendment which I desire to offer to the bill and to have printed and lie on the table. When I shall have done that I am going to suggest to the Senator that after the reading of the bill we adjourn until to-morrow. There is, I think, no Senator ready to discuss the measure now, unless the Senator himself desires to speak to-night.

Mr. FRANCE. I do not desire to discuss the bill at length.

Mr. SMOOT. I think that time will be saved in that way.

Mr. FRANCE. But I thought that we might be able to pass the bill this evening.

Mr. SMOOT. We can not do that.

Mr. President, I offer the amendment which I send to the desk, and ask that it be read, printed, and lie on the table.

The amendment proposed by Mr. SMOOT was read and ordered to be printed and lie on the table, as follows:

On page 1 strike out all of line 10, and on page 2 strike out lines 1, 2, and 3 and substitute therefor the following: "For the use of the Children's Bureau, for the promotion of maternal and infant hygiene, for the administration of this act, and for the purpose of making such studies, investigations, and reports as will further the efficient administration of this act."

On pages 3 and 4 strike out all of section 3 and substitute therefor the following:

"SEC. 3. The Chief of the Children's Bureau of the Department of Labor, acting through the agency of the Children's Bureau of the Department of Labor (hereinafter called the Children's Bureau), shall be charged with the carrying out of the provisions of this act and the Chief of the Children's Bureau shall be the executive officer. The Chief of the Children's Bureau or executive officer is hereby authorized to form an advisory committee to consult with the Chief of the Children's Bureau and to advise concerning any problems which may arise in connection with the carrying out of the provisions of this act, such advisory committee to consist of the Secretary of Agriculture, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education. The Children's Bureau shall have charge of all matters concerning the administration of this act and shall have power to cooperate with the State board authorized to carry out the provisions of this act. It shall be the duty of the Children's Bureau to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this act."

On page 4, line 14, and wherever thereafter they appear in the bill, strike out the words, "Federal board" and substitute therefor the words "Children's Bureau."

On page 4, line 24, insert, after the word "women," the following words: "all of the members of which advisory committee shall serve without compensation."

On page 7, line 8, after the word "medical," insert the following, "or other suitable remedial measures."

The VICE PRESIDENT. The bill will be read.

Mr. KING. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 28 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 16, 1920, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December 15, 1920.*

The House met at 12 o'clock noon.

The Rev. Akaiko Akana, D. D., chaplain of the Senate of Hawaii, offered the following prayer:

Our God and our Father, whose sacred majesty is hallowed on the lips of men and before whose awe-inspiring presence we bow with humble submission: It is with the deepest and keenest sense of gratitude that we pause for a few moments and, in the attitude of prayer, turn to Thee with our special petition for Thy special guidance in and blessing upon the deliberations of this House for this day. We thank Thee for the special privilege and for the sacred honor with which this body of men is crowned of serving as lawmakers for this great Nation of America. Because of the gigantic proportions of its tasks, and the far-reaching moral obligation involved therein, we sincerely pray for Thy wisdom, "lest we forget." Great nations had been in existence before America. They had risen skyward in the splendor of their accomplishment and in the glory of their might. But, because God was forgotten, they fell, and, to-day, the remnant of their broken structures lie heaped upon the ruins of desolation with their names buried beneath and spelled in cold letters on the pages of history. Therefore, let us never forget the verdict of experience, and let our effort be richly blessed with the saneness of Thy counsel; and may the outcome of our endeavor for this day be the transcript of the divine mind and will. Amen.

The Journal of the proceedings of yesterday was read and approved.

CALENDAR WEDNESDAY.

The SPEAKER. To-day is Calendar Wednesday. The Clerk will call the roll of the committees.

Mr. MANN of Illinois. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. It is obvious there is no quorum present.

Mr. MONDELL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The roll was called, and the following Members failed to answer to their names:

Ackerman	Fess	Kettner	Nelson, Wis.
Babka	Fields	Kincheloe	Newton, Mo.
Baer	Focht	King	Nolan
Blackmon	Frear	Kitchin	O'Connell
Booher	Freeman	Kreider	Perlman
Browne	Fuller, Mass.	Langley	Porter
Caldwell	Gallivan	Larsen	Radcliffe
Candler	Gandy	Lesher	Rainey, Ala.
Cantrill	Godwin	Linthicum	Rayburn
Casey	Goldfogle	Lonergan	Reed, N. Y.
Christopherson	Gould	Luhring	Riddick
Coady	Graham, Pa.	McCulloch	Riordan
Copley	Griest	McKenzie	Robinson, N. C.
Costello	Hamill	McKinley	Robsion, Ky.
Crago	Hamilton	McLeod	Romjue
Cullen	Humphreys	Maher	Rouse
Currie, Mich.	Hutchinson	Mann, S. C.	Rowan
Dent	Igoe	Mason	Rubey
Dewalt	James, Mich.	Mead	Rucker
Donovan	Johnson, Ky.	Milligan	Sanders, Ind.
Dooling	Johnston, N. Y.	Minahan, N. J.	Sanders, La.
Drewry	Kahn	Monahan, Wis.	Sanders, N. Y.
Eagle	Kelley, Mich.	Mooney	Sanford
Emerson	Kendall	Morin	Scott
Ferris	Kennedy, Iowa	Mott	Scully